



# STATE OF CONNECTICUT

## REAL ESTATE LAW AND REGULATIONS CONCERNING THE CONDUCT OF REAL ESTATE BROKERS AND SALESPERSONS

Including Amendments passed by the 2002 General Assembly

*Prepared for the Department of Consumer Protection  
and the Connecticut Real Estate Commission  
Hartford, Connecticut*

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*The Connecticut General Assembly posts the Connecticut  
Real Estate Brokerage and Salespersons Statutes at  
<http://www.cga.state.ct.us/2001/pub/chap392.htm>.*

This compilation of laws and regulations relating to the licensure and conduct of real estate brokers, salespersons, and appraisers is designed to be used as a handy reference source. It is not a substitute for the official Connecticut General Statutes and Regulations and may inadvertently contain errors or omissions.



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## REAL ESTATE LICENSING LAW

**Sec. 20-311. Definitions.** As used in this chapter, unless the context otherwise requires: (1) "Real estate broker" or "broker" means (A) any person, partnership, association, limited liability company or corporation which acts for another person or entity and for a fee, commission or other valuable consideration, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate, or a resale of a mobile manufactured home, as defined in subdivision (1) of section 21-64, or collects or offers or attempts to collect rent for the use of real estate, and (B) any person, partnership, association, limited liability company or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, upon commission, upon a salary and commission basis or otherwise to sell such real estate, or any parts thereof, in lots or other parcels, and who sells or exchanges, or offers, attempts or agrees to negotiate the sale or exchange of, any such lot or parcel of real estate;

(2) "Real estate salesperson" or "salesperson" means a person affiliated with any real estate broker as an independent contractor or employed by a real estate broker to list for sale, sell or offer for sale, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to offer for resale, a mobile manufactured home, as defined in subdivision (1) of section 21-64, or to lease or rent or offer to lease, rent or place for rent any real estate, or to collect or offer or attempt to collect rent for the use of real estate for or on behalf of such real estate broker, or who offers, sells or attempts to sell the real estate or mobile manufactured homes of a licensed broker, or acting for another as a designated seller agent or designated buyer agent, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate, or a resale of a mobile manufactured home, as defined in subsection (a) of section 21-64, or collects or offers or attempts to collect rent for the use of real estate, but does not include employees of any real estate broker whose principal occupation is clerical work in an office, or janitors or custodians engaged principally in that occupation;

(3) "Engaging in the real estate business" means acting for another and for a fee, commission or other valuable consideration in the listing for sale, selling, exchanging, buying or renting, or offering or attempting to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate or a resale of a mobile manufactured home, as defined in subdivision (1) of section 21-64, or collecting upon a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate;

(4) "Person" means any individual, partnership, association, limited liability company or corporation;

(5) "Commission" means the Connecticut Real Estate Commission appointed under the provisions of section 20-311a;

(6) "Designated agency" means the appointment by a real estate broker of one or more brokers or salespersons affiliated with or employed by the real estate broker to solely represent a buyer or tenant as a designated buyer's agent and appoint another to represent a seller or landlord as a designated seller's agent in a transaction;

(7) "Designated buyer agent" means a broker or salesperson designated by the real estate broker with whom the broker or salesperson is affiliated or employed to solely represent a named buyer or tenant client of the real estate broker during the term of a buyer representation agreement or authorization;

(8) "Designated seller agent" means a broker or salesperson designated by the real estate broker with whom the broker or salesperson is affiliated or employed to solely represent a named seller or landlord client of the real estate broker during the term of a listing agreement or authorization; and

(9) "Commercial real estate transaction" means any transaction involving the sale, exchange, lease or sublease of real property other than real property containing any building or structure occupied or intended to be occupied by no more than four families or a single building lot to be used for family or household purposes.

**Sec. 20-311a. Real estate commission.** (a) There is created in the department of consumer protection the connecticut real estate commission.

(b) The commission shall consist of eight persons, electors of the state, appointed by the Governor. Three of the members shall be at the time of appointment licensed real estate brokers, two of the members shall be at the time of appointment licensed real estate salespersons and three of the members shall be public members. Not more than a bare majority of the commission shall be members of the same political party and there shall be at least one member from each congressional district.

(c) The members of the commission shall serve until the expiration of the term for which they were appointed and until their successors have qualified. Members shall not be compensated for their services but shall be reimbursed for necessary expenses incurred in the performance of their duties. The Governor may remove any member for cause upon notice and an opportunity to be heard. Upon the death, resignation or removal of a member, the Governor shall appoint a successor to serve for the unexpired portion of the vacated term and until such member's successor is appointed and qualifies. Each member shall, before entering upon his duties, take and file with the commission an oath to faithfully perform the duties of his office.

**Sec. 20-311b. Duties of commission.** (a) Within thirty days after the appointment of the members of the commission, the commission shall meet in the city of Hartford for the purpose of organizing by selecting such officers other than a chairperson as the commission may deem necessary and appropriate. A majority of the members of the commission shall constitute a quorum for the exercise of the powers or authority conferred upon it.

(b) (1) The commission shall authorize the department of consumer protection to issue licenses to real estate brokers and real estate salespersons. The commission shall receive and approve applications for real estate student intern programs pursuant to the provisions of section 20-314c.

(2) The commission shall administer the provisions of this chapter as to licensure and issuance, renewal, suspension or revocation of licenses concerning the real estate business.

(c) The commission shall be provided with the necessary office space in Hartford by the commissioner of public works. The place of business of the commission and all files, records and property of the commission shall at all times be and remain at such office, except that inactive files shall be

stored at a location designated by the commission.

(d) The commission shall hold meetings and hearings in Hartford, in space provided by the commissioner of administrative services, or at such places outside of Hartford as shall be determined by the chairman of the commission. The commission shall meet at least once in each three-month period and may meet more often at the call of its chairman. The chairman of the commission shall call a meeting of the commission whenever requested to do so by a majority of the members of the commission.

(e) The commission shall vote on all matters requiring a decision and votes shall be recorded in the commission's minutes.

Sec. 20-311c. Executive director. Expenses of commission members. Records. Section 20-311c is repealed.

Sec. 20-311d. Bond for chairperson. The chairperson of the commission shall be bonded under the provisions of section 4-20, in such sum as the state insurance and risk management board may prescribe, with the condition that the chairperson faithfully perform the duties of the office and account for all funds received pursuant to the office.

Sec. 20-311e. Deposit of fees. The commission shall deposit all moneys received by it from fees in accordance with the provisions of this chapter with the state treasurer, and they shall, except as to that portion thereof required to be paid over to the University of Connecticut under the provisions of section 10a-125, or that portion required to be paid to the real estate guaranty fund pursuant to this chapter, become part of the general fund.

Sec. 20-311f. Arbitration of disputes between brokers or salespersons. The commission shall have the power to act as a board of arbitration to consider and decide any dispute over commissions arising between brokers or salespersons that is voluntarily submitted to the commission by the parties to such dispute.

Sec. 20-312. Licensing. (a) No person shall act as a real estate broker or real estate salesperson without a license issued by the commission, unless exempt under this chapter. The commissioner of consumer protection may enter into any contract for the purpose of administratively processing the renewal of licenses on behalf of the commission.

(b) No partnership, association or corporation shall be granted a real estate broker's license, unless every member or officer of such partnership, association or corporation who actively participates in its real estate brokerage business holds a license as a real estate broker, and unless every employee who acts as salesperson for such partnership, association or corporation and every salesperson who is affiliated with such partnership, association or corporation as an independent contractor holds a license as a real estate salesperson. A partnership, association or corporation shall designate in its application the individual who is to serve as broker under the license.

Sec. 20-312a. Liability of brokers for salespersons affiliated as independent contractors. In any action brought by a third party against a real estate salesperson affiliated with a real estate broker as an independent contractor, such broker shall be liable to the same extent as if such affiliate had been employed as a real estate salesperson by such broker.

Sec. 20-312b. Licensed real estate broker or real estate salesperson not deemed "employee" under section 31-275. A licensed real estate broker or real estate salesperson shall not be considered an employee under the provisions of section 31-275 if substantially all of the remuneration for the services performed by such broker or salesperson, whether paid in cash or otherwise, is directly related to sales or other output rather than to the number of hours worked, and such services are performed by the broker or salesperson pursuant to a written contract that contains the following provisions:

(1) The broker or salesperson, for purposes of workers' compensation, is engaged as an independent contractor associated with the person for whom services are performed;

(2) The broker or salesperson shall be paid a commission based on his gross sales, if any, without deduction for taxes, which commission shall be directly related to sales or other output;

(3) The broker or salesperson shall not receive any remuneration related to the number of hours worked and shall not be treated as an employee with respect to such services for purposes of workers' compensation;

(4) The broker or salesperson shall be permitted to work any hours he chooses;

(5) The broker or salesperson shall be permitted to work out of his own home or the office of the person for whom services are performed;

(6) The broker or salesperson shall be free to engage in outside employment;

(7) The person for whom the services are performed may provide office facilities and supplies for the use of the broker or salesperson, but the broker or salesperson shall otherwise pay his own expenses, including, but not limited to, automobile, travel and entertainment expenses; and

(8) The contract may be terminated by either party at any time upon notice given to the other.

Sec. 20-313. Application for license. Any person possessing the qualifications prescribed in this chapter, and in any regulations adopted under this chapter, who desires to engage in the real estate business shall make application, in writing, as provided in this chapter, to the commission for the specific license desired.

Sec. 20-314. License qualifications. Examinations. Renewals. Fees. Reinstatement. Hearings. (a) Licenses shall be granted under this chapter only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a real estate broker or real estate salesperson in such manner as to safeguard the interests of the public.

(b) Each application for a license or for a renewal thereof shall be made in writing, on such forms and in such manner as is prescribed by the department of consumer protection and accompanied by such evidence in support of such application as is prescribed by the commission. The commission may require such information with regard to an applicant as the commission deems desirable, with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the applicant and, where the applicant is a corporation, association or partnership, as to the honesty, truthfulness, integrity and competency of the officers of such corporation or the members of such association or partnership.

(c) In order to determine the competency of any applicant for a real estate broker's license or a real estate salesperson's license the commission shall, on payment to the commission of an application fee of sixty dollars by an applicant for a real estate broker's license or on payment to the commission of an application fee of forty dollars by an applicant for a real estate salesperson's license, subject such applicant to personal written examination as to the applicant's competency to act as a real estate broker or real estate salesperson, as the case may be. Such examination shall be prepared by the department of consumer protection or by a national testing service designated by the commissioner of consumer protection and shall be administered to applicants by the department of consumer protection or by such testing service at such times and places as the commissioner may deem necessary. The commission may waive the uniform portion of the written examination requirement in the case of an applicant who has taken the national testing service examination in another state within two years from the date of application and has received a score deemed satisfactory by the commission. The commissioner of consumer protection shall adopt regulations, in accordance with chapter 54, establishing passing scores for examinations. In addition to such application fee, applicants taking the examination administered by a national testing service shall be required to pay directly to such testing service an examination fee covering the cost of such examination. Each payment of such application fee shall entitle the applicant to take such examination four times within the one-year period from the date of payment. Eligibility to take such examination may be renewed annually upon payment of an additional five-dollar fee.

(d) (1) Each applicant for a real estate broker's license shall, before being admitted to such examination, prove to the satisfaction of the commission: (A) (i) That the applicant has been actively engaged for at least two years as a licensed real estate salesperson under the supervision of a licensed real estate broker in this state, (ii) that the applicant has successfully completed a course approved by the commission in real estate principles and practices of at least thirty classroom hours of study, (iii) that the applicant has successfully completed a course approved by the commission in real estate appraisal consisting of at least thirty classroom hours of study, and (iv) that the applicant has successfully completed a course approved by the commission consisting of at least thirty classroom hours as prescribed by the commission, or (B) that the applicant has equivalent experience or education as determined by the commission.

(2) Each applicant for a real estate salesperson's license shall, before being admitted to such examination, prove to the satisfaction of the commission (A) that the applicant has successfully completed a course approved by the commission in real estate principles and practices consisting of at least thirty classroom hours of study, or (B) that the applicant has equivalent experience or education as determined by the commission.

(e) The provisions of subsections (c) and (d) of this section shall not apply to any renewal of a real estate broker's license, or a real estate salesperson's license issued prior to October 1, 1973.

(f) All licenses issued under the provisions of this chapter shall expire annually. At the time of application for a real estate broker's license, there shall be paid to the commission, for each individual applicant and for each proposed active member or officer of a firm, partnership, association or corporation, the sum of four hundred fifty dollars, and for the annual renewal thereof, the sum of three hundred dollars and for a real estate salesperson's license two hundred twenty-five dollars and for the annual renewal thereof the sum of two hundred twenty-five dollars. Three dollars of each such annual renewal fee shall be payable to the real estate guaranty fund established pursuant to section 20-324a. If a license is not issued, the fee shall be returned. A real estate broker's license issued to any partnership, association or corporation shall entitle the individual designated in the application, as provided in section 20-312, upon compliance with the terms of this chapter, but without the payment of any further fee, to perform all of the acts of a real estate broker under this chapter on behalf of such partnership, association or corporation. Any license which expires and is not renewed pursuant to this subsection may be reinstated by the commission, if, not later than two years after the date of expiration, the former licensee pays to the commission for each real estate broker's license the sum of three hundred dollars and for each real estate salesperson's license the sum of two hundred twenty-five dollars for each year or fraction thereof from the date of expiration of the previous license to the date of payment for reinstatement, except that any licensee whose license expired after such licensee entered military service shall be reinstated without payment of any fee if an application for reinstatement is filed with the commission within two years after the date of expiration. Any such reinstated license shall expire on the next succeeding April thirtieth.

(g) Any person whose application has been filed as provided in this section and who is refused a license shall be given notice and afforded an opportunity for hearing as provided in the regulations adopted by the commissioner of consumer protection.

Sec. 20-314a. Regulations concerning approval of schools. Exemption from experience requirement. The commissioner of consumer protection, with the advice and assistance of the commission, may adopt such reasonable regulations, in accordance with chapter 54, as the commissioner deems necessary relating to the approval of schools offering courses in real estate principles and practice and related subjects, or real estate student intern programs, the content of such courses or programs and the advertising to the public of the services of such schools. Such regulations shall not require approval of instructors at such schools. The commission may exempt any applicant for a real estate broker's license from the requirements concerning experience under the provisions of subsection (d) of section 20-314, if the commission determines that such applicant is unable to meet such requirements solely because such applicant has been subjected to discrimination based on race, creed or color, which discrimination interfered with such applicant's ability to meet such requirements.

Sec. 20-314b. Validity of license. Any person licensed under this chapter shall be permitted to perform the work covered by such license in any municipality of this state without further examination or licensing by such municipality.

Sec. 20-314c. Real estate student intern programs. Application. Exemption from license requirements. Any student who wishes to enroll in a real estate student intern program in this state, shall file an application with the commission. The commission shall approve such application if it appears to the satisfaction of the commission that the program is provided by an accredited school and the student will be under the direct supervision of a real estate broker licensed in the state. The application shall contain the name and address of such licensed real estate broker, and a statement from the broker that such broker shall be liable for any acts of negligence, fraud or misrepresentation by such student while under such broker's supervision. If the commission approves the application, the commission shall exempt such student from the license requirements of this chapter during the period in which such student is acting as an intern under the direct supervision of a real estate broker licensed in the state while enrolled in such intern program.

Sec. 20-315. Bond. Section 20-315 is repealed.

Sec. 20-316. Grounds for refusal of license. (a) No license under this chapter shall be denied by the commission to any applicant who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or other like offense or offenses, or to any association or partnership of which such person is a member, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly, except in accordance with the provisions of section 46a-80.

(b) No license under this chapter shall be issued by the department of consumer protection to any applicant (1) whose application for a license as a real estate broker or real estate salesperson has, within one year prior to the date of his application under this chapter, been rejected in this state, in any other state or in the District of Columbia or (2) whose license as a real estate broker or real estate salesperson has, within one year prior to the date of his application under this chapter, been revoked in this state, in any other state or in the District of Columbia.

(c) No license as a real estate broker or real estate salesperson shall be issued under this chapter to any person who has not attained the age of eighteen years.

(d) The provisions of this section shall apply to all applicants for licenses under this chapter, whether or not such applicant was engaged in the real estate business in this state on July 1, 1953, and whenever his application is filed.

Sec. 20-317. Licenses to nonresidents. Temporary licenses. (a) A person licensed in another state as a real estate broker or salesperson may become a real estate broker or real estate salesperson in this state by conforming to all of the provisions of this chapter. The commission shall recognize a current, valid license issued to a currently practicing, competent real estate broker or real estate salesperson by another state as satisfactorily qualifying the broker or salesperson for a license as a real estate broker or real estate salesperson under this chapter, provided (1) the laws of the state in which the broker or salesperson is licensed require that applicants for licenses as real estate brokers and real estate salespersons shall establish their competency by written examinations and allow licenses to be issued to residents of the state of Connecticut, licensed under this chapter, without examination, (2) the licensure requirements of such state are substantially similar to or higher than those of this state, and (3) the broker or salesperson has no disciplinary proceeding or unresolved complaint pending against the broker or salesperson. If the applicant is licensed in a state that does not have such requirements, such applicant shall be required to pass the Connecticut portion of the real estate examination.

(b) Every applicant licensed in another state shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court in any judicial district of the state in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading, authorized by the laws of this state, on the chairperson of the commission, such consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if service had been made upon such applicant in the state of Connecticut. If any process or pleadings under this chapter are served upon the chairperson, it shall be by duplicate copies, one of which shall be filed in the office of the commission, and the other immediately forwarded by registered or certified mail, to the applicant against whom such process or pleadings are directed, at the last-known address of such applicant as shown by the records of the commission. No default in any such proceedings or action shall be taken unless it appears by affidavit of the chairperson of the commission that a copy of the process or pleading was mailed to the defendant as required by this subsection, and no judgment by default shall be taken in any such action or proceeding within twenty days after the date of mailing of such process or pleading to the out-of-state defendant.

Sec. 20-318. Certificate. The department of consumer protection shall issue to each licensee under this chapter a license certificate in such size and form as the department determines.

Sec. 20-319. Renewal. Continuing education requirements. Regulations. (a) The commission shall authorize the department of consumer protection to issue an annual renewal license to any applicant who possesses the qualifications specified in and otherwise has complied with the provisions of this chapter and any regulation adopted under this chapter.

(b) There is hereby established an annual renewal license to be issued by the department of consumer protection. Persons licensed in accordance with the provisions of this chapter shall fulfill a continuing education requirement. Applicants for an annual renewal license for real estate brokers or real estate salespersons shall, in addition to the other requirements imposed by the provisions of this chapter, in any even-numbered year, submit proof of compliance with the continuing education requirements of this subsection to the commission, accompanied by an eight-dollar processing fee. The continuing education requirement may be satisfied by successful completion of any of the following during the two-year period preceding such renewal: (1) A course or courses, approved by the commission, of continuing education in current real estate practices and licensing laws consisting of not less than twelve hours of classroom study; or (2) a written examination prepared and administered by either the department of consumer protection, or by

a national testing service approved by the department, which demonstrates a knowledge of current real estate practices and licensing laws; or (3) equivalent continuing educational experience or study as determined by regulations adopted pursuant to subsection (d). An applicant for examination under subdivision (2) of this subsection shall pay the required examination fee to the national testing service, if administered by such testing service, or to the Department of Consumer Protection, if administered by the department.

(c) If the commission refuses to grant an annual renewal license, the licensee or applicant, upon written notice received as provided for in this chapter, may have recourse to any of the remedies provided by sections 20-314 and 20-322.

(d) The commissioner of consumer protection, in consultation with the commission, shall adopt regulations, in accordance with chapter 54, concerning the approval of schools, institutions or organizations offering courses in current real estate practices and licensing laws and the content of such courses. Such regulations shall include, but not be limited to: (1) Specifications for meeting equivalent continuing educational experience or study; (2) exceptions from continuous education requirements for reasons of health or instances of individual hardship.

Sec. 20-319a. Change of salesperson's employment or affiliation. Fees. (a) Any licensed real estate salesperson who transfers his employment from one broker to another or his affiliation with a broker as an independent contractor shall register such transfer with, and pay a registration fee of twenty-five dollars to, the commission.

(b) A fee of twenty-five dollars shall be paid to the commission for the issuance of a license certification or a duplicate of a license certificate.

Sec. 20-320. Suspension or revocation of licenses. Fines. the department of consumer protection may, upon the request of the commission or upon the verified complaint in writing of any person, if such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection with such complaint, shall make out a prima facie case, investigate the actions of any real estate broker or real estate salesperson or any person who assumes to act in any of such capacities within this state. The commission may temporarily suspend or permanently revoke any license issued under the provisions of this chapter and, in addition to or in lieu of such suspension or revocation, may, in its discretion, impose a fine of not more than two thousand dollars at any time when, after proceedings as provided in section 20-321, the commission finds that the licensee has by false or fraudulent misrepresentation obtained a license or that the licensee is guilty of any of the following: (1) Making any material misrepresentation; (2) making any false promise of a character likely to influence, persuade or induce; (3) acting as an agent for more than one party in a transaction without the knowledge of all parties for whom the licensee acts; (4) representing or attempting to represent a real estate broker other than the licensee's employer or the broker with whom the licensee is affiliated, without the express knowledge and consent of the licensee's employer or affiliated broker; (5) failing, within a reasonable time, to account for or remit any moneys coming into the licensee's possession which belong to others; (6) entering into an exclusive listing contract or buyer agency contract which contains a fixed termination date if such contract also provides for an automatic continuation of the period of such contract beyond such date; (7) failing to deliver immediately a copy of any instrument to any party or parties executing the instrument, where such instrument has been prepared by the licensee or under the licensee's supervision and where such instrument relates to the employment of the licensee or to any matters pertaining to the consummation of a lease, or the purchase, sale or exchange of real property or any other type of real estate transaction in which the licensee may participate as a broker or a salesperson; (8) conviction in a court of competent jurisdiction of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or other like offense or offenses, provided suspension or revocation under this subdivision shall be subject to the provisions of section 46a-80; (9) collecting compensation in advance of services to be performed and failing, upon demand of the person paying the compensation or the commission, to render an accounting of the use of such money; (10) commingling funds of others with the licensee's own, or failing to keep funds of others in an escrow or trustee account; (11) any act or conduct which constitutes dishonest, fraudulent or improper dealings; (12) failing to provide the disclosures required by section 20-325c; (13) a violation of any provision of this chapter or any regulation adopted under this chapter. Any fine collected pursuant to this section shall be deposited in the real estate guaranty fund established pursuant to section 20-324a.

Sec. 20-320a. Referral of any buyer of real property to an attorney or mortgage broker prohibited, when. Suspension or revocation of licenses. Fines. (a) No real estate broker or real estate salesperson, no person affiliated with such broker or salesperson, and no person engaging in the real estate business may receive a fee, commission or other form of referral fee for the referral of any buyer of real property to (1) an attorney-at-law admitted to practice in this state or any person affiliated with such attorney or (2) any mortgage broker, any lender, as defined in subdivision (5) of section 49-31d, or any person affiliated with such mortgage broker or lender.

(b) The department of consumer protection may, upon the request of the commission or upon the verified complaint in writing of any person, if such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection with such complaint, shall make out a prima facie case, investigate the actions of any real estate broker or real estate salesperson or any person who assumes to act in any of such capacities within this state. The commission may temporarily suspend or permanently revoke any license issued under the provisions of this chapter, and, in addition to or in lieu of such suspension or revocation, may, in its discretion, impose a fine of not more than one thousand dollars for the first offense at any time when, after proceedings as provided in section 20-321, the commission finds that the licensee is guilty of violating any of the provisions of subsection (a) of this section.

Sec. 20-321. Notice and hearing. Before refusing, suspending or revoking any license or imposing any fine under this chapter, the commission shall give notice and afford an opportunity for hearing as provided in the regulations adopted by the commissioner of consumer protection.

Sec. 20-322. Appeal. Any person aggrieved by any decision or order of the commission may appeal in accordance with the provisions of section 4-183.

Sec. 20-323. Revocation of license upon conviction of crime. Any licensee under this chapter who is convicted of a violation of any of the offenses enumerated in subdivision (8) of section 20-320 shall incur a forfeiture of his license and all moneys that may have been paid for such license. The clerk of any court in which such conviction has been rendered shall forward to the commission without charge a certified copy of such conviction. The commission, upon the receipt of a copy of the judgment of conviction, shall, not later than ten days after such receipt, notify the licensee, in writing, of the revocation of his license. Such notice shall be conclusive of the revocation of such license. Application for reinstatement of such license shall be subject to the provisions of section 46a-80.

Sec. 20-324. Misrepresentation; penalty. Any person willfully misrepresenting any fact required to be disclosed in any application or in any other form, paper or document required to be filed with the commission in connection with an application for a license under this chapter shall be fined not more than five hundred dollars or imprisoned not more than six months or both.

Sec. 20-324a. Real estate guaranty fund. The commission shall establish and maintain a Real Estate Guaranty Fund from which, subject to the provisions of sections 20-324a to 20-324j, inclusive, any person aggrieved by any action of a real estate broker or real estate salesperson, duly licensed in this state under section 20-312, by reason of the embezzlement of money or property, or money or property unlawfully obtained from any person by false pretenses, artifice, trickery or forgery or by reason of any fraud, misrepresentation or deceit by or on the part of any such real estate broker or real estate salesperson or the unlicensed employee of any such real estate broker, may recover, upon approval by the commission of an application brought pursuant to the provisions of section 20-324e, compensation in an amount not exceeding in the aggregate the sum of twenty-five thousand dollars in connection with any one real estate transaction or claim, regardless of the number of persons aggrieved or parcels of real estate involved in such real estate transaction or claim.

Sec. 20-324b. Fee payable to fund. Any person who receives a real estate broker's or real estate salesperson's license under this chapter for the first time shall pay an additional one-time fee of twenty dollars in addition to all other fees payable, which additional fee shall be credited to the Real Estate Guaranty Fund. The Real Estate Guaranty Fund shall also be credited as provided in sections 20-314 and 20-320.

Sec. 20-324c. Level of guaranty fund. Credits to guaranty fund and general fund. The commission shall maintain the real estate guaranty fund at a level not to exceed five hundred thousand dollars and to this intent moneys received under section 20-324b shall be credited to said fund whenever the fund balance is below five hundred thousand dollars. Any such moneys may be invested or reinvested in the same manner as funds of the state employees retirement system. The interest arising from such investments shall be credited to the real estate guaranty fund whenever the fund balance is below five hundred thousand dollars, and to the general fund whenever the fund balance is equal to or greater than five hundred thousand dollars. Any moneys received under section 20-324b not required to maintain the real estate guaranty fund balance shall be deposited to the general fund. All moneys in the real estate guaranty fund in excess of five hundred thousand dollars, shall be transferred by the state treasurer to the general fund.

Sec. 20-324d. Limitation of actions. No application to recover compensation under sections 20-324a to 20-324j, inclusive, which might subsequently result in an order for collection from the real estate guaranty fund shall be brought later than two years from the final determination of, or expiration of time for appeal in connection with, any judgment.

Sec. 20-324e. Procedure. (a) When any aggrieved person commences any action for a judgment which may result in collection from the real estate guaranty fund, the aggrieved person shall notify the commission in writing to this effect at the time of the commencement of such action. Such written notice shall toll the time for making application to the commission pursuant to section 20-324d. The commission shall have the right to enter an appearance, intervene in or defend any such action and may waive the required written notice for good cause shown.

(b) When any aggrieved person recovers a valid judgment in the superior court against any real estate broker or real estate salesperson or the unlicensed employee of any such real estate broker for loss or damages sustained by reason of the embezzlement of money or property, or money or property unlawfully obtained from any person by false pretenses, artifice, trickery or forgery or by reason of any fraud, misrepresentation or deceit by or on the part of such real estate broker or salesperson or the unlicensed employee of any such real estate broker, such aggrieved person may upon the final determination of, or expiration of time for appeal in connection with, any judgment, apply to the commission for an order directing payment out of the real estate guaranty fund of the amount unpaid upon the judgment, subject to the limitations stated in section 20-324a and the limitations specified in this section. The license of any such broker or salesperson shall be automatically revoked upon the entry of such judgment.

(c) The commission shall proceed upon such application in a summary manner, and, upon the hearing thereof, the aggrieved person shall be required to show: (1) He is not a spouse of the debtor or the personal representative of such spouse; (2) he has complied with all the requirements of this section; (3) he has obtained a judgment as provided in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application; (4) he has caused to be issued a writ of execution upon the judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized; (5) he has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment; (6) that by such search he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(d) Whenever the aggrieved person satisfies the commission that it is not practicable to comply with one or more of the requirements

enumerated in subdivisions (4), (5) and (6) of subsection (c) of this section and that the aggrieved person has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the commission may in its discretion waive such requirements.

(e) The commission shall order payment from the real estate guaranty fund of any sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section and section 20-324a, if the commission is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person by subsection (c) of this section and that the aggrieved person has fully pursued and exhausted all remedies available to him for recovering the amount awarded by the judgment of the court.

(f) If the commission pays from the real estate guaranty fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or real estate salesperson pursuant to an order under subsection (e) of this section, such broker or salesperson shall not be eligible to receive a new license until he has repaid in full, plus interest at a rate to be determined by the commission and which shall reflect current market rates, the amount paid from the fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(g) If, at any time, the money deposited in the real estate guaranty fund is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of four per cent a year.

Sec. 20-324f. Penalty for false or untrue claim. Any person filing with the commission any notice, statement or other document required under the provisions of section 20-324e which is false or untrue or contains any material misstatement of fact shall be fined not less than two hundred dollars.

Sec. 20-324g. Procedure for commission. When the commission receives notice, as provided in section 20-324e, it may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action the commission may deem appropriate on the behalf and in the name of the defendant and take recourse through any appropriate method of review or appeal on behalf and in the name of the defendant.

Sec. 20-324h. Payment from guaranty fund. When the commission has caused to be paid from the real estate guaranty fund any sum to the judgment creditor, the commission shall be subrogated to all of the rights of the judgment creditor up to the amount paid, and the judgment creditor shall assign all of his right, title and interest in the judgment up to such amount paid to the commission, and any amount and interest recovered by the commission on the judgment shall be deposited to the fund.

Sec. 20-324i. Regulations. The commissioner of consumer protection, with the advice and assistance of the commission, may adopt regulations, in accordance with chapter 54, to carry out the provisions of sections 20-324a to 20-324j, inclusive.

Sec. 20-324j. Appeal of commission decision, order or regulation. Any person aggrieved by any decision, order or regulation of the commission under sections 20-324a to 20-324i, inclusive, may appeal in accordance with the provisions of section 20-322.

Sec. 20-324k. Brokers to maintain escrow or trust account for certain moneys held. Disputed deposits. (a) Each broker licensed under the provisions of this chapter, who in the course of his real estate business receives, accepts and holds any moneys on behalf of any principal, client or other person shall at all times maintain a separate escrow or trust account, distinct from his own account, in a bank of his choice doing business in this state, for the deposit of all such moneys so received by him.

(b) The commission may examine and audit any escrow or trust account maintained by any broker in accordance with the provisions of subsection (a) of this section whenever the commission shall deem such examination and audit necessary.

(c) Any broker who, in the course of his real estate business and in connection with any transaction, accepts from any principal, client or other person any moneys to which he is not personally and legally entitled, including, but not limited to, any down payment, earnest money, deposit, rental money, rental security deposit or other money to be held by him in trust, shall deposit such moneys in his escrow or trust account within three banking days of the date the agreement evidencing such transaction is signed by all necessary parties to such transaction, pending final legal disposition of such moneys in accordance with the instructions of the person legally entitled to such moneys.

(d) Upon motion, the court may order a party to an action who is a broker holding funds in trust in connection with a real estate transaction to deposit with the court certified funds in an amount not to exceed the funds held in trust. Conditioned upon the receipt of such certified funds, the court shall also order the dismissal of any claim against the broker which claim is based solely on the broker's role as stakeholder of such funds.

(e) Any broker who willfully violates any provision of this section shall be fined not more than one thousand dollars or imprisoned not more than six months or both.

[See Sec. 8-265f re program for use of interest earned on real estate broker escrow or trust accounts for mortgage assistance for first-time buyers.]

Sec. 20-325. Engaging in business without license. Any person who engages in the business of a real estate broker or real estate salesperson without obtaining a license as provided in this chapter shall be fined not more than one thousand dollars or imprisoned not more than six months or both, and shall be ineligible to obtain a license for one year from the date of conviction of such offense, except that the commission, in its discretion, may grant a license to such person within such one-year period upon application and after a hearing on such application.

Sec. 20-325a. Actions to recover commissions arising out of real estate transactions. Real estate broker's lien for real property. Claim for lien. Provisions re commercial real estate transactions. (a) No person who is not licensed under the provisions of this chapter, and who was not so licensed at the time the person performed the acts or rendered the services for which recovery is sought, shall commence or bring any action in any court of this state, after October 1, 1971, to recover any commission, compensation or other payment with respect to any act done or service rendered by the person, the doing or rendering of which is prohibited under the provisions of this chapter except by persons duly licensed under this chapter.

(b) No person, licensed under the provisions of this chapter, shall commence or bring any action with respect to any acts done or services rendered after October 1, 1995, as set forth in subsection (a), unless the acts or services were rendered pursuant to a contract or authorization from the person for whom the acts were done or services rendered. To satisfy the requirements of this subsection any contract or authorization shall: (1) Be in writing, (2) contain the names and addresses of the real estate broker performing the services and the name of the person or persons for whom the acts were done or services rendered, (3) show the date on which such contract was entered into or such authorization given, (4) contain the conditions of such contract or authorization, (5) be signed by the real estate broker or the real estate broker's authorized agent, (6) if such contract or authorization pertains to any real property, include the following statement: "THE REAL ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS PURSUANT TO SECTION 20-325a OF THE CONNECTICUT GENERAL STATUTES," and (7) be signed by the person or persons for whom the acts were done or services rendered or by an agent authorized to act on behalf of such person or persons, pursuant to a written document executed in the manner provided for conveyances in section 47-5, except, if the acts to be done or services rendered involve a listing contract for the sale of land containing any building or structure occupied or intended to be occupied by no more than four families, be signed by the owner of the real estate or by an agent authorized to act on behalf of such owner pursuant to a written document executed in the manner provided for conveyances in section 47-5.

(c) Notwithstanding the provisions of subsection (b) of this section, no person licensed under the provisions of this chapter, shall commence or bring any action with respect to any acts done or services rendered after October 1, 2000, in a commercial real estate transaction, unless the acts or services were rendered pursuant to (1) a contract or authorization meeting the requirements of subsection (b) of this section, or (2) a memorandum, letter or other writing stating for whom the licensee will act or has acted, signed by the party for whom the licensee will act or has acted in the commercial real estate transaction, the duration of the authorization and the amount of any compensation payable to the licensee, provided (A) the licensee provides written notice to the party, substantially similar to the following: "THE REAL ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS PURSUANT TO SECTION 20-325a OF THE CONNECTICUT GENERAL STATUTES," and (B) the notice is provided at or before the execution of the contract, authorization, memorandum, letter or other writing, and may be made part of the contract, authorization, memorandum, letter or other writing.

(d) Nothing in subsection (a) of this section, subdivisions (2) to (7), inclusive, of subsection (b) of this section or subsection (c) of this section shall prevent any licensee from recovering any commission, compensation or other payment with respect to any acts done or services rendered, if it would be inequitable to deny such recovery and the licensee (1) has substantially complied with subdivisions (2) to (7), inclusive, of subsection (b) of this section or (2) with respect to a commercial real estate transaction, has substantially complied with subdivisions (2) to (6), inclusive, of subsection (b) of this section or subdivision (2) of subsection (c) of this section.

(e) A licensed real estate broker who has performed acts or rendered services relating to real property upon terms provided for in a written contract or agreement between such broker and the owner or buyer for whom such acts were done or services rendered shall have a lien upon such real property. Such lien shall be in the amount of the compensation agreed upon by and between the broker and the owner or buyer for whom such acts were done or services rendered.

(f) Except as provided in subsections (g), (h) and (i) of this section, the lien provided for in this section shall not attach until the broker is entitled to compensation, without any contingencies, other than closing or transfer of title, under the terms set forth in the written listing or buyer representation contract and the broker has recorded the claim for lien prior to the actual conveyance or lease of such real property with the town clerk of the town where such property is located.

(g) Except as provided in subsection (h) of this section, when a broker is entitled to compensation from the owner of real property in installments, a portion of which is due only after the conveyance or lease of the real property, any claim for lien for those payments due after the conveyance or lease may be recorded at any time subsequent to the conveyance or lease of the real property and prior to the date on which the payment is due but shall only be effective as a claim for lien against the real property to the extent moneys are still owed to the transferor by the transferee. A single claim for lien recorded prior to conveyance or lease of the real property claiming all moneys due under an installment payment agreement shall not be valid or enforceable as it pertains to payments due after the conveyance or lease. The lien shall attach as of the recording of the claim for lien.

(h) In the case of a lease for real property the claim for lien must be recorded within thirty days after the tenant takes possession of the leased premises unless written notice of the intended signing of the lease is delivered to the broker entitled to claim a lien by registered or certified mail, return receipt requested, or by personal service, at least ten days prior to the date of the intended signing of the lease for the real property in which case the claim for lien must be recorded before the date indicated for the signing of the lease in the notice delivered to the broker. The lien shall attach as of the recording of the claim for lien.

(i) If a broker's written contract for payment is with a prospective buyer, then the lien shall attach only after the prospective buyer accepts the conveyance or lease of the real property and the claim for lien is recorded by the broker with the town clerk of the town in which such property is located. Any claim for lien shall be filed by the broker no later than thirty days after the conveyance or the tenant takes possession of the real property.

(j) The broker shall serve a copy of the claim for lien on the owner of the real property. Service shall be made by mailing a copy of the claim for lien by registered or certified mail, return receipt requested, or by personal service upon the owner by any indifferent person, state marshal or other proper officer, by leaving with such owner or at the owner's usual place of abode a true and attested copy thereof. A copy of the claim for lien may be served at the same time as the notice required by subsection (r) of this section. The broker's lien shall be void and unenforceable if recording does not occur within the time period and in the manner required by this section.

(k) A broker may bring suit to enforce a claim for lien in the superior court in the judicial district where the real property is located by filing a



complaint and sworn affidavit that the claim for lien has been recorded in accordance with this section. The person claiming a lien shall, unless the claim is based upon an option to purchase the real property, within one year after recording the claim for lien, commence foreclosure by filing a complaint. Failure to commence foreclosure within one year after recording the lien shall extinguish the lien. No subsequent claim for lien may be given for the same claim nor may that claim be asserted in any proceedings under this section. A person claiming a lien based upon an option to purchase shall, within six months after the conveyance or lease of the real property under the exercise of the option to purchase, commence foreclosure by filing a complaint and a sworn affidavit that the claim for lien has been recorded in accordance with this section. Failure to commence foreclosure within this time shall extinguish that claim for lien. No subsequent claim for lien may be given for the same claim nor may that claim be asserted in any proceedings under this section. The plaintiff shall issue summons and provide service as in actions to foreclose a mortgage. When any defendant resides out of the state or is temporarily located out of the state, or on inquiry cannot be found, or is concealed within this state so that process cannot be served on that defendant, the plaintiff shall cause a notice to be given to that defendant, or cause a copy of the complaint to be served upon that defendant, in the manner and upon the same conditions as in actions to foreclose a mortgage. Except as otherwise provided in this section, all liens claimed under this section shall be foreclosed in the manner in which mortgage foreclosures are conducted.

(l) The claim for lien shall state the name of the claimant, the name of the owner, a description of the real property upon which the lien is being claimed, the amount for which the lien is claimed, and the real estate license number of the broker. The claim for lien shall contain a sworn statement by the signatory that the information contained in the notice is true and accurate to the knowledge of the signatory. The claim for lien shall be signed by the broker.

(m) Whenever a claim for lien has been recorded with the town clerk and a condition occurs that would preclude the broker from receiving compensation under the terms of the broker's written contract or agreement, the broker shall provide within thirty days of demand to the owner of record a written release or satisfaction of the lien.

(n) Upon written demand of the owner or the owner's authorized agent, served on the broker claiming the lien requiring suit to be commenced to enforce the lien, a suit shall be commenced within forty-five days thereafter, or the claim for lien shall be extinguished. Service of any such written demand shall be by registered or certified mail, return receipt requested, or by personal service upon the broker by any indifferent person, state marshal or other proper officer, by leaving with such broker or at the broker's usual place of abode a true and attested copy thereof.

(o) Whenever a claim for lien has been recorded with the town clerk and is paid, or where there is failure to foreclose to enforce the lien within the time provided by this section, the broker shall acknowledge satisfaction or release the claim for lien, in writing, on written demand of the owner within thirty days after payment or expiration of the time in which to commence foreclosure on the lien.

(p) Except as otherwise provided in this section, whenever a claim for lien has been recorded with the town clerk, that would prevent the closing of a conveyance or lease, an escrow account shall be established from the proceeds of the conveyance or lease in the amount of the compensation agreed upon by the parties. Upon the establishment of the escrow account the broker shall immediately release the claim for lien. The establishment of an escrow account, as provided for in this section, shall not be the sole cause for the owner to refuse to complete the conveyance or lease. These moneys shall be held in escrow by the attorney for the lessor in the case of a lease for real property and by the attorney for the owner in the case of the actual conveyance or lease of such real property until the parties' rights to the escrowed moneys have been determined by the written contract or agreement of the parties, a determination by the superior court, or some other process which may be agreed to by the parties. When there are sufficient funds in the amount of the claimed lien, there shall be a release of the claim for lien which would allow completion of the conveyance or lease on such terms as are acceptable to the parties involved in the conveyance or lease. If the proceeds from the conveyance or lease are insufficient to release all liens claimed against the real property, including the broker's claim for lien, then the parties are not required to establish the escrow account under this section.

(q) The provisions of subsections (a) and (b) of this section shall not apply to any person excepted from the provisions of this chapter by section 20-329 with respect to any acts performed by the person which are included in such exception; or to any real estate broker or real estate salesperson who has provided services to the federal government, any political subdivision thereof, or any corporation, institution or quasi-governmental agency chartered by the federal government.

(r) No broker is entitled to claim any lien under this section, unless, after the broker is entitled to compensation, without contingencies, other than closing or transfer of title, under the terms set forth in the written contract and not later than three days prior to the later of the date of the conveyance or lease as set forth in the real estate sales contract or lease or the actual date of the conveyance or the date when the tenant takes possession, the broker gives written notice of the claim for lien to the owner of the real property and to the prospective buyer or tenant that the broker is entitled to compensation under the terms set forth in the written contract and intends to claim a lien on the real property. The notice shall be served upon the owner and the prospective buyer or tenant, by any indifferent person, state marshal or other proper officer, by leaving with such owner and prospective buyer or at their usual place of abode a true and attested copy thereof. When there are two or more owners, or two or more buyers, the notice shall be served on each owner and on each buyer.

[See Sec. 20-325e re hearings re commercial real property claims for liens, foreclosures and judicial intervention.]

[See P.A. 01-88 re commercial real estate brokerage lease notification.]

**Sec. 20-325b. Certain real estate agreements to contain notice regarding commissions. Requirements.** Each written agreement which fixes the compensation to be paid to a real estate broker for the sale, lease or purchase of real property shall contain the following statement in not less than ten point boldface type or in a manner which otherwise stands out significantly from the text immediately preceding any provision of such agreement relating to compensation of the broker:

"NOTICE: THE AMOUNT OR RATE OF REAL ESTATE BROKER COMPENSATION IS NOT FIXED BY LAW. IT IS SET BY EACH BROKER INDIVIDUALLY AND MAY BE NEGOTIABLE BETWEEN YOU AND THE BROKER."

Sec. 20-325c. Real estate broker or salesperson acting as mortgage broker. (a) As used in this section "residential real property" means one to four-family residential real estate located in this state.

(b) Notwithstanding any provision of the general statutes to the contrary, no real estate broker or real estate salesperson, and no person affiliated with such broker or salesperson, who receives a fee, commission or other valuable consideration for the sale of residential real property, may receive a fee, commission or other valuable consideration for negotiating, soliciting, arranging, placing or finding a first mortgage loan for the buyer in connection with the same sale unless disclosure is made in accordance with the provisions of subsection (c) of this section. Any fee, commission or other valuable consideration received by such broker or salesperson for negotiating, soliciting, arranging, placing or finding a first mortgage loan shall (1) be related to the services actually performed, as determined by the commissioner of banking by regulations adopted pursuant to chapter 54, (2) not be imposed for the referral of the buyer to the mortgage lender by such broker or salesperson, and (3) be paid directly to the broker or salesperson by the buyer rather than from the mortgage loan proceeds at the time of closing.

(c) Any disclosure made pursuant to subsection (b) of this section shall be made to and acknowledged by the buyer prior to the time the buyer signs a contract with the real estate broker or salesperson for mortgage brokering services. Such disclosure shall include the following notice printed in at least ten-point boldface capital letters:

I UNDERSTAND THAT THE REAL ESTATE BROKER OR SALESPERSON IN THIS TRANSACTION HAS OFFERED TO ASSIST ME IN FINDING A MORTGAGE LOAN. ADDITIONALLY, I UNDERSTAND THAT THIS REAL ESTATE BROKER OR SALESPERSON DOES NOT REPRESENT ANY PARTICULAR MORTGAGE LENDER AND WILL ATTEMPT TO OBTAIN THE BEST TERMS AVAILABLE WITHIN THE MORTGAGE LOAN MARKET FOR MY SPECIFIC HOME FINANCING NEEDS. IF THE REAL ESTATE BROKER OR SALESPERSON DOES NOT FULFILL HIS FIDUCIARY OBLIGATION I MAY FILE A COMPLAINT WITH THE DEPARTMENT OF BANKING. I ALSO UNDERSTAND THAT I MAY ATTEMPT TO FIND A MORTGAGE LOAN TO FINANCE THE PURCHASE OF MY HOME WITHOUT THE ASSISTANCE OF THE REAL ESTATE BROKER OR SALESPERSON IN WHICH CASE I WILL NOT BE OBLIGATED TO PAY A FEE TO THE REAL ESTATE BROKER OR SALESPERSON.

(d) No mortgage lender may refuse to close a mortgage loan secured by residential real property because the buyer has not paid a fee, commission or other valuable consideration to a real estate broker or salesperson for negotiating, soliciting, arranging, placing or finding the first mortgage loan.

Sec. 20-325d. Disclosure of representation. On and after January 1, 1995, a real estate broker or real estate salesperson licensed under this chapter, who is acting as an agent of the seller or lessor, shall make a written disclosure of whom he represents in a real estate transaction to prospective purchasers and lessees at the beginning of the first personal meeting concerning the prospective purchaser's or lessee's specific needs, unless such prospective purchaser or lessee is represented by another real estate broker or real estate salesperson licensed under this chapter. Such disclosure shall be signed by the prospective purchaser or lessee and attached to any offer or agreement to purchase or lease signed by the prospective purchaser or lessee. Whenever any real estate broker or real estate salesperson intends to act as an agent for the prospective purchaser or lessee, he shall disclose such intended representation to the seller or lessor at the beginning of the first personal meeting with the seller or lessor concerning the seller's or lessor's real property, unless such seller or lessor is represented by another real estate broker or real estate salesperson licensed under this chapter. On or before January 1, 1995, the commissioner of consumer protection, shall adopt such regulations in accordance with chapter 54 as the commissioner deems necessary to carry out the provisions of this section.

Sec. 20-325e. Hearings re real property claims for liens. Foreclosures. Judicial intervention. (a) Whenever one or more real property claims for liens are placed upon any real estate pursuant to section 20-325a, the owner of the real estate, if no action to foreclose the claim is then pending before any court, may make application, together with a proposed order and summons, to the superior court for the judicial district in which the lien may be foreclosed under the provisions of section 20-325a or to any judge thereof, that a hearing or hearings be held to determine whether the claim for lien or liens should be discharged or reduced. The court or judge shall thereupon order reasonable notice of the application to be given to the lienor or lienors named therein and, if the application is not made by all owners of the real estate as may appear of record, shall order reasonable notice of the application to be given to all other such owners, and shall set a date or dates for the hearing or hearings to be held thereon. If the lienor or lienors or any owner entitled to notice is not a resident of this state, the notice shall be given by personal service, registered or certified mail, publication or such other method as the court or judge shall direct. At least four days' notice shall be given to the lienor, lienors or owners entitled to notice prior to the date of the hearing.

(b) The application, order and summons shall be substantially in the following form:

APPLICATION FOR DISCHARGE OR  
REDUCTION OF REAL PROPERTY CLAIM FOR LIEN

To the \_\_\_\_ Court of \_\_\_\_

The undersigned represents:

1. That \_\_\_\_ is the owner of the real estate described in Schedule A attached hereto.
2. That the names and addresses of all other owners of record of such real estate are as follows:
3. That on or about\_\_\_\_, (date)\_\_\_\_, (name of lienor) of\_\_\_\_ (address of lienor) placed a real property claim for lien on such real estate and gave notice thereof.
4. That there is not probable cause to sustain the validity of such claim for lien (or: That such claim for lien is excessive).

5. That the applicant seeks an order for discharge (or reduction) of such claim for lien.

Name of Applicant

By \_\_\_\_\_  
His Attorney

ORDER

The above application having been presented to the court, it is hereby ordered, that a hearing be held thereon at \_\_\_\_\_ a.m. and that the applicant give notice to the following persons: (Names and addresses of persons entitled to notice) of the pendency of said application and of the time when it will be heard by causing a true and attested copy of the application, and of this order to be served upon such persons by some proper officer or indifferent person on or before \_\_\_\_\_ and that due return of such notice be made to this court.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

SUMMONS

To the state marshal of the county of \_\_\_\_\_ or either constable of the town of \_\_\_\_\_, in said county,

Greeting:

By authority of the state of Connecticut, you are hereby commanded to serve a true and attested copy of the above application and order upon \_\_\_\_\_, of \_\_\_\_\_ by leaving the same in his hands or at his usual place of abode (or such other notice as ordered by the court) on or before \_\_\_\_\_. Hereof fail not but due service and return make.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Commissioner of the Superior Court

(1) The clerk upon receipt of all the documents in duplicate, if he finds them to be in proper form, shall fix a date for a hearing on the application and sign the order of hearing and notice. An entry fee of twenty dollars shall then be collected and a copy of the original document shall be placed in the court file.

(2) The clerk shall deliver to the applicant's attorney the original of the documents for service. Service having been made, the original documents shall be returned to the court with the endorsement by the officer of his doings.

(c) If an action for foreclosure of the claim for lien is pending before any court, any party to that action may at any time prior to trial, unless an application under subsection (a) of this section has previously been ruled upon, move that the claim for lien be discharged or reduced.

(d) No more than one application under subsection (a) of this section or motion under subsection (c) of this section shall be ruled upon with respect to any single real property claim for lien, except that this subsection shall not preclude an application or motion by a person not given notice of the prior application or not a party to the action at the time the prior motion was ruled upon.

Sec. 20-325f. Broker subagency. Written consent of client required. Vicarious liability of principal. No real estate broker shall make any unilateral offer of subagency or agree to compensate, appoint, employ, cooperate with or otherwise affiliate with a subagent for the sale or purchase of real property without the informed written consent of the person whom the real estate broker represents. Such written consent shall contain the name and real estate license number of the real estate broker to be appointed as the subagent and shall contain a statement notifying the person whom the real estate broker represents that the law imposes vicarious liability on the principal for the acts of the subagent.

Sec. 20-325g. Dual agency consent agreements. Conclusive presumption of informed consent. There shall be a conclusive presumption that a person has given informed consent to a dual agency relationship with a real estate broker if that person executes a written consent in the following form prior to executing any contract or agreement for the purchase, sale or lease of real estate:

DUAL AGENCY CONSENT AGREEMENT

Property Address: \_\_\_\_\_

Seller(s) or Landlord(s): \_\_\_\_\_

Buyer(s) or Tenant(s): \_\_\_\_\_

(1) This Dual Agency Consent Agreement is an addendum to and make part of (check all that apply):

(  ) Listing Agreement dated \_\_\_\_\_ between brokerage firm and seller or landlord.

(  ) Buyer or tenant agency agreement dated \_\_\_\_\_ between brokerage firm and buyer or tenant.

(2) Seller and buyer (or landlord and tenant, as the case may be) hereby acknowledge and agree that \_\_\_\_\_ (name of brokerage firm) is representing both buyer and seller (or landlord and tenant, as the case may be) in the purchase and sale (or lease) of the above referenced property and that brokerage firm has been and is now the agent of both seller and buyer (or landlord and tenant, as the case may be). Seller and buyer (or landlord and tenant, as the case may be) have both consented to and hereby confirm their consent to this dual representation.

(3) Seller and buyer (or landlord and tenant, as the case may be) agree: (A) The brokerage firm shall not be required to and shall not disclose to either buyer or seller (or landlord or tenant, as the case may be) any personal, financial or other confidential information to such other party without the express written consent of the party whose information is disclosed, other than information related to material property defects which are known to the brokerage firm and other information the brokerage firm is required to disclose by law. (B) The brokerage firm may not disclose: (i) To the buyer that the seller (landlord) will accept less than the asking or listed price, unless otherwise instructed to do so in writing by the seller (landlord); (ii) to the seller (landlord) that the buyer (tenant) can or will pay a price greater than the price submitted in a written offer to the seller (landlord), unless otherwise instructed to do so in writing by the buyer (tenant); (iii) the motivation of the seller or buyer (or landlord or tenant, as the case may be) for selling, buying or leasing property, unless otherwise instructed in writing by the respective party; or (iv) that a seller or buyer will agree to financing terms other than those offered, unless instructed in writing by the respective party.

(4) Property information available through the multiple listing service or otherwise, including listed and sold properties, which has been requested by either the seller or the buyer (or landlord or tenant, as the case may be) shall be disclosed to both seller and buyer (or landlord and tenant, as the case may be).

(5) Both parties are advised to seek competent legal and tax advice with regard to this transaction, and with regard to all documents executed in connection with this transaction, including this Dual Agency Consent Agreement.

I have read and understand the above agreement.

_____	_____	_____
Buyer (Landlord)	Seller (Tenant)	Brokerage Firm
_____	_____	_____
		(Authorized Representative)
_____	_____	_____
		(Company Name)
_____	_____	_____
Date	Date	Date

Sec. 20-325h. Prohibitions on use or disclosure of confidential information. (a) No real estate licensee shall: (1) Reveal confidential information concerning a person whom the real estate licensee represented either as an agent, designated buyer agent or a designated seller agent; (2) use confidential information concerning that person to the person's disadvantage; or (3) use confidential information concerning that person for the real estate broker's or real estate salesperson's advantage or the advantage of a third party, except as required by legal process, as necessary to defend the real estate broker or real estate salesperson from allegations of wrongful or negligent conduct, or as necessary to prevent the commission of a crime.

(b) As used in this section, "confidential information" means facts concerning a person's assets, liabilities, income, expenses, motivations to purchase, rent or sell real property and previous offers received or made to purchase or lease real property which are not authorized by the client, a matter of general knowledge, part of a public record or file to which access is authorized pursuant to section 1-210 or otherwise subject to disclosure under any other provision of the general statutes or any regulation of Connecticut state agencies.

Sec. 20-325i. Designated buyer agents and seller agents. Any real estate broker, or a person licensed under this chapter authorized by such broker, may appoint, at the option of such broker or authorized person, one or more designated seller agents as additional agents for a seller or landlord or a designated buyer agent as an additional agent for a buyer or tenant. Such designation may be made with regard to a particular transaction only. Upon such designation, the responsibility to satisfy the respective duties as a seller's or landlord's agent or as a buyer's or tenant's agent shall be the primary responsibility of the individual so designated, who shall not be deemed a dual agent, except in the case of an individual designated to represent both a seller and buyer in the same transaction. Nothing in this section shall be construed to prohibit other forms of agency relationships allowed by law

Sec. 20-325j. Regulations re appointment of designated buyer or seller agent. On or before October 1, 1999, the commissioner of consumer protection shall adopt regulations, in accordance with the provisions of chapter 54, to prescribe (1) a form of written notice to be issued to the consumer upon the appointment of a designated seller agent or designated buyer agent, and (2) a form of written consent to be signed by all parties.

Sec. 20-326. Report to Governor. The commission shall submit to the Governor, as provided in section 4-60, a report of its official acts under this chapter. The commission shall keep a record of proceedings and orders pertaining to the matters under its jurisdiction and of licenses granted, refused, suspended or revoked by the commission and of all reports sent to its office. The commission shall furnish without charge, for official use only, certified copies of licenses and documents relating to such licenses, to officials of the state or any municipality in this state, to officials of any other state and to any court in this state. Any certified copy of any document or record of the commission, attested as a true copy by the chairman of the commission, shall be competent evidence in any court of this state of the facts contained in such copy.

Sec. 20-327. Employees. Section 20-327 is repealed.

Sec. 20-327a. Periodic publication of information and material. The department of consumer protection, at the request of the commission, may periodically compile and publish a bulletin containing information and material relating to the commission, its functions and licenses and other information and material relating to the real estate industry that may be of help and interest to licensees in their service of the public. The commission may also request the department to publish such information and material in any established periodical published in the state if, in the opinion of the commission, such form of publication would ensure the widest dissemination of such information and material to licensees and the public.

Sec. 20-327b. Residential condition reports. Exemption. Regulations. (a) Except as otherwise provided in this section, each person who offers residential property in the state for sale, exchange or for lease with option to buy, shall provide a written residential condition report to the prospective purchaser at any time prior to the prospective purchaser's execution of any binder, contract to purchase, option, or lease containing a purchase option. A photocopy, duplicate original, facsimile transmission, or other exact reproduction or duplicate of the written residential condition report containing the prospective purchaser's written receipt shall be attached to any written offer, binder or contract to purchase. A photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of the written residential condition report containing the signatures of both seller and purchaser, shall be attached to any agreement to purchase the property.

(b) The following shall be exempt from the provisions of this section: (1) Any transfer from one or more co-owners solely to one or more of the co-owners; (2) transfers made to the spouse, mother, father, brother, sister, child, grandparent or grandchild of the transferor where no consideration is paid; (3) transfers pursuant to an order of the court; (4) transfers of newly-constructed residential real property for which an implied warranty is provided under chapter 827; (5) transfers made by executors, administrators, trustees or conservators; (6) transfers by the federal government, any political subdivision thereof or any corporation, institution or quasi-governmental agency chartered by the federal government; (7) transfers by deed in lieu of foreclosure; (8) transfers by the state of Connecticut or any political subdivision thereof; (9) transfers of property which was the subject of a contract or option entered into prior to January 1, 1996; and (10) any transfer of property acquired by a judgment of strict foreclosure or by foreclosure by sale or by a deed in lieu of foreclosure.

(c) The provisions of this section shall apply only to transfers by sale, exchange or lease with option to buy, of residential real property consisting of not less than one nor more than four dwelling units which shall include cooperatives and condominiums, and shall apply to all transfers, with or without the assistance of a licensed real estate broker or salesperson, as defined in section 20-311.

(d) (1) The commissioner of consumer protection, shall, by regulations adopted in accordance with the provisions of chapter 54, prescribe the form of the written residential disclosure report required by this section and sections 20-327c to 20-327e, inclusive. The regulations shall provide that the form include information concerning municipal assessments, including, but not limited to, sewer or water charges applicable to the property. Such information shall include: (i) Whether such assessment is in effect and the amount of the assessment; (ii) whether there is an assessment on the property that has not been paid, and if so, the amount of the unpaid assessment; and (iii) to the extent of the seller's knowledge, whether there is reason to believe that the municipality may impose an assessment in the future.

(2) Such form of the written residential disclosure report shall contain the following:

(A) A certification by the seller in the following form:

"To the extent of the seller's knowledge as a property owner, the seller acknowledges that the information contained above is true and accurate for those areas of the property listed. In the event a real estate broker or salesperson is utilized, the seller authorizes the brokers or salespersons to provide the above information to prospective buyers, selling agents or buyers' agents.

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Seller)

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Seller)"

(B) A certification by the buyer in the following form:

"The buyer is urged to carefully inspect the property and, if desired, to have the property inspected by an expert. The buyer understands that there are areas of the property for which the seller has no knowledge and that this disclosure statement does not encompass those areas. The buyer also acknowledges that the buyer has read and received a signed copy of this statement from the seller or seller's agent.

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Buyer)

\_\_\_\_\_ (Date)

\_\_\_\_\_ (Buyer)"

(C) A statement concerning the responsibility of real estate brokers in the following form:

"This report in no way relieves a real estate broker of the broker's obligation under the provisions of section 20-328-5a of the Regulations of Connecticut State Agencies to disclose any material facts. Failure to do so could result in punitive action taken against the broker, such as fines, suspension or revocation of license."

(D) A statement that any representations made by the seller on the written residential disclosure report shall not constitute a warranty to the buyer.

(E) A statement that the written residential disclosure report is not a substitute for inspections, tests and other methods of determining the

physical condition of property.

(F) Information concerning environmental matters such as lead, radon, subsurface sewage disposal and such other topics as the Commissioner of Consumer Protection may determine would be of interest to a buyer.

(G) A statement that information concerning the residence address of a person convicted of a crime may be available from law enforcement agencies or the department of public safety and that the department of public safety maintains a site on the Internet listing information about the residence address of persons required to register under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

(e) On or after January 1, 1996, the commissioner of consumer protection shall make available the residential disclosure report prescribed in accordance with the provisions of this section and sections 20-327c to 20-327e, inclusive, to the division of real estate, all municipal town clerks, the Connecticut Association of Realtors, Inc., and any other person or institution that the commissioner believes would aid in the dissemination and distribution of such form. The commissioner shall also cause information concerning such form and the completion of such form to be disseminated in a manner best calculated, in the commissioner's judgment, to reach members of the public, attorneys and real estate licensees.


Sec. 20-327c. Credit due purchaser at closing if report not furnished. On or after January 1, 1996, every agreement to purchase residential real estate, for which a written residential condition report is required pursuant to section 20-327b, shall include a requirement that the seller credit the purchaser with the sum of three hundred dollars at closing should the seller fail to furnish the written residential condition report as required by sections 20-327b to 20-327e, inclusive.

Sec. 20-327d. No new implied or express warranties created. Seller not required to secure inspections, tests or other methods of determining condition of property. No provision of section 20-327b or 20-327c: (1) Shall be construed to create any new implied or express warranties on behalf of the seller of the property; or (2) shall be construed to require the seller of the property to secure inspections, tests or other methods of determining the physical conditions of the property.

Sec. 20-327e. Seller's representations construed to extend to his actual knowledge only. The representations made by the seller pursuant to section 20-327b or 20-327c shall be construed only to extend to the seller's actual knowledge of the property and no constructive knowledge shall be imputed to the seller.

Sec. 20-328. Regulations. The Commissioner of Consumer Protection, with advice and assistance from the commission, may adopt such reasonable regulations, in accordance with chapter 54, as the commissioner deems necessary relating to the form and manner of filing applications for licenses under this chapter and the manner in which licensed real estate brokers and licensed real estate salespersons shall conduct the real estate business.

Sec. 20-329. Exceptions concerning the licensure of brokers and salespersons. The provisions of this chapter concerning the licensure of real estate brokers and real estate salespersons shall not apply to: (1) Any person who as owner or lessor performs any of the acts enumerated in section 20-311, with reference to property owned, leased or sought to be acquired or leased by the person, or to the person's regular employees who are employed as on-site residential superintendents or custodians, with respect to the property so owned or leased or sought to be acquired or leased when such acts are performed in the regular course of, or incident to, the management of such property and the investment therein; (2) any person acting as attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing or exchange of real estate, or to service rendered by any attorney-at-law in the performance of the attorney-at-law's duties as such attorney-at-law; (3) a receiver, trustee in bankruptcy, administrator, executor or other fiduciary, while acting as such, or any person selling real estate under order of any court, or to a trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof; (4) witnesses in court as to the values of real estate; (5) persons in the employ of the federal or state government or any political subdivision thereof while acting in the course of such employment; (6) any employee of any nonprofit housing corporation that (A) has been certified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and manages a housing project, or (B) manages a housing project assisted in whole or in part by the federal government pursuant to Section 8 of The United States Housing Act of 1937, as from time to time amended, while such employee is performing duties in the regular course of, or incidental to, the management of such housing project; (7) any person licensed as a broker in accordance with sections 36a-510 to 36a-524, inclusive, who engages solely in the activities described in subsection (6) of section 36a-510; (8) any person licensed to maintain or operate a mobile manufactured home park under chapter 412 who performs any of the acts enumerated in section 20-311, with reference to lots or mobile manufactured homes within the park or to the person's employees with respect to lots or mobile manufactured homes within such park when such acts are performed in the regular course of, or incidental to, the management of such property and the investment therein; (9) persons licensed as sellers of mobile manufactured homes under section 21-67; or (10) any person or such person's regular employee who, as owner, lessor, licensor, manager, representative or agent manages, leases, or licenses space on or in a tower, building or other structure for (A) "personal wireless services facilities" or facilities for "private mobile service" as those terms are defined in 47 USC 332, which facilities shall be unattended, and the installation and maintenance of related devices authorized by the Federal Communications Commission, and ancillary equipment used to operate such devices and equipment shelters therefore, in an area not to exceed three hundred sixty square feet for any one service established by the Federal Communications Commission in 47 CFR, as amended from time to time, by a provider of any such service, and (B) any right appropriate to access such facilities and connect or use utilities in connection with such facilities.



## INTERSTATE LAND SALES

Sec. 20-329a. Advertising and sale in this state of property in another state: Definitions. As used in sections 20-329a to 20-329n, inclusive:

- (1) "Disposition" or "dispose of" means any sale, exchange, lease, assignment, award by lottery or other transaction designed to convey an interest in a subdivision or parcel, lot, or unit in a subdivision when undertaken for gain or profit;
- (2) "Offer" means every inducement, solicitation or attempt to bring about a disposition;
- (3) "Person" means an individual, firm, company, association, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association or organization, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;
- (4) "Broker" means a resident real estate broker duly licensed under this chapter;
- (5) "Salesperson" means any person duly licensed as a real estate salesperson under this chapter;
- (6) "Purchaser" means a person who acquires an interest in any lot, parcel or unit in a subdivision;
- (7) "Subdivision" means any improved or unimproved land or tract of land located outside this state which is divided or proposed to be divided into five or more lots, parcels, units, including time-share units, or interests for the purpose of disposition, at any time as part of a common promotional plan. Any land which is under common ownership or which is controlled by a single developer or a group of developers acting in concert, is contiguous in area, and is designated or advertised as a common unit or known by a common name, shall be presumed, without regard to the number of lots, parcels, units or interests covered by each individual offering, to be part of a common promotional plan; and
- (8) "Advertising" means publishing or causing to be published: (A) By means of any newspaper or periodical; (B) by means of any radio or television broadcast; (C) by means of any written or printed or photographic matter produced by any duplicating process producing ten copies or more, any information offering for sale or for the purpose of causing or inducing any other person to purchase or to acquire an interest in the title to subdivided lands, including the land sales contract to be used and any photographs or drawings or artist's representations of physical conditions or facilities on the property existing or to exist; or (D) by means of any material used in connection with the disposition or offer of subdivided lands by radio, television, telephone or any other electronic means. "Advertising" does not include: Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, and the like; prospectuses, property reports, offering statements or other documents required to be delivered to prospective purchasers by an agency of any other state or the federal government; all communications addressed to and relating to the account of any persons who have previously executed a contract for the purchase of the subdivider's lands except where directed to the sale of additional lands; or press releases or other communications delivered to newspapers or other periodicals for general information or public relations purposes, provided no charge is made by such newspapers or other periodicals for the publication or use of any part of such communications.

Sec. 20-329b. Excepted activities. Filing fees. (a) Unless the method of disposition is adopted for the purpose of the evasion of the provisions of sections 20-329a to 20-329m, inclusive, or the provisions of the federal Interstate Land Sales Full Disclosure Act, said sections shall not apply to: (1) The making of any offer or disposition of any subdivision or lot, parcel, unit or interest in any subdivision (A) by a purchaser of any subdivision lot, parcel or unit for the purchaser's own account in a single or isolated transaction, (B) to any person who is engaged in the business of the construction of residential, commercial or industrial buildings, other than any lot, parcel, unit or interest in any subdivision, for disposition, (C) pursuant to the order of any court in this state, or (D) by any government or government agency; (2) any offer or disposition of any evidence of indebtedness secured by way of any mortgage or deed of trust of real estate; (3) securities or units of interest issued by an investment trust regulated under the laws of this state; (4) cemetery lots; or (5) the leasing of apartments, offices or stores, or the leasing of similar space within any apartment building, commercial building or industrial building.

(b) The commission may from time to time, pursuant to regulations adopted by the commissioner of consumer protection pursuant to chapter 54, with the advice and assistance of the commission, exempt any subdivision from any of the provisions of sections 20-329a to 20-329m, inclusive, if the commission finds that the enforcement of said sections, with respect to such subdivision or lots, parcels, units or interests in such subdivision, is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the offering, or because such property has been registered and approved pursuant to the laws of any other state.

(c) Any subdivision which has been registered under the federal Interstate Land Sales Full Disclosure Act shall be exempt from the provisions of section 20-329d, except for the narrative description of the promotional plan for the disposition of the subdivided lands and copies of all advertising material which has been prepared for public distribution by any means of communications, required under subdivision (2) of said section, upon the filing with the commission of a copy of an effective statement of record filed with the secretary of housing and urban development together with a filing fee of three hundred dollars for each subdivision covered by such effective statement of record. The fee for filing a consolidation or an additional number of lots not included in the initial filing shall be three hundred dollars.

Sec. 20-329c. Secretary as agent for service of process; bond; license required. Except as provided in section 20-329b, no subdivision or lot, parcel, unit or interest in any subdivision shall in any way be offered or disposed of in this state by any person or broker until: (1) Such person or broker has appointed in writing the secretary of the state and his successors in office to be such person's or broker's attorney, upon whom all process, in any action or proceeding against such person or broker, may be served. Such person or broker shall agree in such written appointment that any process against such person or broker which is served on the secretary of the state shall be of the same legal force and validity as if served on such person or broker and that such appointment shall continue in force as long as any liability remains outstanding against such person or broker in this state. Such written appointment shall be acknowledged before an officer authorized to take acknowledgments of deeds and shall be filed in the office of the secretary of the state, and copies certified by the secretary of the state shall be sufficient evidence of such appointment and agreement; (2) such person or broker

has posted with the commission such bond, in favor of the state, as the commission may require with surety in such amount as the commission may in its discretion determine. No bond which may be required under sections 20-329a to 20-329m, inclusive, shall be accepted for filing unless it is with a surety company authorized to do business in this state. Any person aggrieved by an act of the principal named in such bond in violation of the provisions of this chapter may proceed on such bond against the principal or surety therein, or both, to recover damages; and (3) until such person or broker has received a license under section 20-329f. Any person or broker violating the provisions of this section shall be fined not less than one thousand dollars and not more than five thousand dollars for each offense.

Sec. 20-329d. Submission of documents, promotional plan and advertising materials to commission. Filing fees. Any person or broker proposing to offer or dispose of any subdivision or lot, parcel, unit or interest therein in this state shall first submit to the commission (1) such particulars and details of the subdivision or lots, parcels, units or other interest in any subdivision to be offered or to be disposed of as the commission may by regulation require, including but not limited to a prospectus, property report or offering statement embodying all the terms relative to the offering and disposition, (2) a narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which has been prepared for public distribution by any means of communications, (3) a completed license application in such form as the commission may require, and (4) a filing fee of three hundred dollars for each subdivision to be offered or disposed of. The fee for filing a consolidation or an additional number of lots not included in the initial filing shall be three hundred dollars.

Sec. 20-329e. Investigation by commission. Before the commission issues any license under sections 20-329a to 20-329m, inclusive, to any person or broker, the department of consumer protection shall fully investigate all information placed before the department as may be required pursuant to sections 20-329a to 20-329m, inclusive, and may carry out a physical examination, investigation or inspection of any subdivision which is the subject of the application. All reasonable expenses incurred in carrying out such examination, investigation or inspection shall be paid by the applicant and no such license shall be issued until such expenses have been fully paid.

Sec. 20-329f. Issuance of license. Fees. (a) The commission shall, upon completion of the investigation and inspection as provided in section 20-329e, but, in the absence of any agreement to the contrary between the applicant and the commission, not later than three months from the receipt of the completed license application, or receipt of an effective statement of record filed with the secretary of housing and urban development and filed with the commission pursuant to subsection (c) of section 20-329b, (1) approve or disapprove the prospectus, property report or offering statement submitted under subsection (c) of section 20-329b, or section 20-329d, as the case may be, and (2) if satisfied, issue to the applicant upon payment to the commission of a fee computed as provided in subsection (b), a license to offer and dispose of in this state the subdivision or parcels, units or other interests in any subdivision that is the subject of the application or such effective statement of record. Such license shall be valid for one year and may be renewed annually upon payment to the commission of a fee, computed as provided in subsection (b), unless there is a material change affecting such subdivision or lot, parcels, units or other interest in any subdivision or the offer or disposition thereof, in which case all new facts shall be reported to the commission immediately. Upon receipt of such report or in the event that any such material change is discovered by or comes to the attention of the commission through other sources, the commission may, after hearing pursuant to section 20-321, take such action as the commission considers necessary, including the suspension or revocation of such license if justified.

(b) The amount any person shall pay for an initial license fee or a renewal license fee for each subdivision covered by the license shall be computed on the basis of the rates set forth in the following schedule.

Number Of Lots or Units	Initial Fee	Annual Renewal Fee
1-50	\$250.	\$100.
51-100	\$275.	\$125.
101-150	\$300.	\$150.
151-200	\$325.	\$175.
201-250	\$350.	\$200.
251-300	\$375.	\$225.
301-350	\$400.	\$250.
351-400	\$425.	\$275.
401-450	\$450.	\$300.
451-500	\$475.	\$325.
501 and above	\$500.	\$350.

See Sec. 21a-10(b) re staggered schedule for license renewals.



Sec. 20-329g. Reference to commission in advertising prohibited. No person or broker shall in any manner refer to the commission or to any member or employee thereof in offering or disposing of in this state any subdivision lot, parcel or unit in a subdivision nor make any representation whatsoever that such property has been inspected or approved or otherwise passed upon by the commission or any official, department or employee of this state. Any person violating the provisions of this section shall be fined not less than one thousand dollars nor more than five thousand dollars.

Sec. 20-329h. Rights of purchasers. (a) No subdivision or lot, parcel, unit or interest in any subdivision shall be disposed of except through a broker, provided nothing in this subsection shall be deemed to prohibit any such broker from employing any salesperson, for the specific purpose of offering or disposing of, on behalf of such broker and under contract to such broker, any lot, parcel, unit or interest in any subdivision. Prior to any offering or disposition, pursuant to any license granted under sections 20-329a to 20-329m, inclusive, the name of such broker shall be placed on file with the commission.

(b) A clearly identified copy of the prospectus, property report or offering statement shall be given to each purchaser by the broker or salesperson prior to the execution of any contract for the disposition of any such property. The broker or salesperson shall obtain from the purchaser a signed receipt for a copy of such prospectus, property report or offering statement and, if a contract for disposition shall be entered into, the receipt shall be kept in the broker's files for a period of seven years and shall be subject to inspection by the commission. Upon termination of such broker or salesperson's employment with the developer, all such records shall be turned over to the developer within thirty days and shall be retained by such developer for the duration of the seven-year period.

(c) Any contract or agreement for the disposition of any subdivision or any lot, parcel, unit or interest in any subdivision, not exempted under the provisions of section 20-329b, where the prospectus, property report or offering statement has not been given to the purchaser more than seventy-two hours in advance of his signing such contract or agreement, may be revoked by the purchaser within seventy-two hours after the purchaser signed the contract or agreement or after receipt by the purchaser of such prospectus, property report or offering statement, whichever is the later, and the contract or agreement shall so provide, except that the contract or agreement may stipulate that such revocation authority shall not apply in the case of a purchaser who (1) has received the prospectus, property report or offering statement and inspected the subdivision in advance of signing the contract or agreement, and (2) acknowledges by his signature that the purchaser has made such inspection and has read and understood the prospectus, property report or offering statement. Any such revocation shall be in writing in a form prescribed by the commission and shall be communicated to the broker within the time period specified in this subsection. All moneys paid by the purchaser under such revoked contract or agreement shall be returned immediately to the purchaser by the broker without any deductions.

Sec. 20-329i. Penalty. Any broker or salesperson who violates any provision of section 20-329a to 20-329m, inclusive, shall, in addition to any other penalty imposed by said sections, and subject to the provisions of section 20-321, have his real estate broker's or real estate salesperson's license suspended or revoked by the commission for such time as in the circumstances the commission considers justified.

Sec. 20-329j. Commission members may not participate. No member of the commission or any association, firm or corporation with which a member is associated shall act as a broker of a subdivision or a lot, parcel, unit or interest in a subdivision or offer or dispose of a subdivision or a lot, parcel, unit or interest in a subdivision that is required to be approved pursuant to section 20-329d.

Sec. 20-329k. Nonliability of advertising media. The owner, publisher, licensee or operator of any newspaper, magazine, visual or sound radio broadcasting station or network of stations or the agents or employees of any such owner, publisher, licensee or operator of such a newspaper, magazine, station or network of stations shall not be liable under sections 20-329a to 20-329m, inclusive, for any advertising of any subdivision, lot, parcel or unit in any subdivision carried in any such newspaper or magazine or by any such visual or sound radio broadcasting station or network of stations nor shall any of them be liable under said sections for the contents of any such advertisement.

Sec. 20-329l. Appeal. Any person aggrieved by any action or decision, order or regulation of the commission may appeal in the manner prescribed by section 20-322.

Sec. 20-329m. Regulations. The Commissioner of Consumer Protection, with the advice and assistance of the commission, may from time to time adopt such regulations, in accordance with chapter 54, as the commissioner deems necessary to carry out and enforce the provisions of sections 20-329a to 20-329n, inclusive, in the interests of the public.

Sec. 20-329n. Deposits of purchasers and lessees to be held in escrow. All moneys paid or advanced by a purchaser or lessee or prospective purchaser or prospective lessee for any lot, parcel, unit or interest in any subdivision, the disposition of which is controlled by sections 20-329a, 20-329b, 20-329d, 20-329e, 20-329f, 20-329h and 20-329i, or such portion of such moneys as the commission may determine is sufficient for the protection of the interests of such purchaser or lessee shall be deposited by the seller or lessor in an escrow account, approved by the commission, in a bank doing business in this state. Such money shall remain in such escrow account until (1) a proper and valid release is obtained for such money, (2) the owner or subdivider or the purchaser or lessee has defaulted under their contract for sale or lease and the commission or a court has made a determination as to the disposition of such money, or (3) the owner or subdivider or the seller or lessor orders the return of such money to such purchaser or lessee.

Sec. 20-329o. Real property securities dealers. Definitions. Certain sales not deemed a sale to the public. (a) As used in sections 20-329o to 20-329bb, inclusive:

(1) "Real property securities dealer" means any person, acting as principal or agent, who engages in the business of (A) selling real property securities to the public, or (B) offering to accept or accepting funds for continual reinvestment in real property securities, or for placement in an account, plan or program whereby the dealer implies that a return will be derived from a specific real property sales contract or promissory note secured directly or collaterally by a lien on real property which is not specifically stated to be based upon the contractual payments thereon.

(2) "Real property security" means (A) an investment contract made in connection with the sale of a single promissory note secured directly or collaterally by a lien on real property or a single real property sales contract wherein the real property securities dealer or his principal agrees to do or implies that such dealer or principal will do any of the following: (i) Guarantee the note or contract against loss at any time, (ii) guarantee that payments of principal or interest will be paid in conformity with the terms of the note or contract, (iii) assume any payments necessary to protect the security of the note or contract, (iv) accept, from time to time, partial payments toward the purchase of the note or contract, (v) guarantee a specific yield or return on the note or contract, (vi) pay with his own funds any interest or premium for a period prior to actual purchase and delivery of the note or contract, (vii) pay with his own funds any money after the note or contract falls into arrears, or (viii) repurchase the note or contract; (B) one of a series of promotional notes secured by liens on separate parcels of real property in one subdivision or in contiguous subdivisions; or (C) one of a series of real property sales contracts pertaining to separate parcels of real property in one subdivision or in contiguous subdivisions, all of which are executed by one person or persons associated together as owners. As used in this subdivision, "real property sales contract" does not include a contract executed more than three years prior to being offered for sale. Performance of services in connection with loans or promissory notes secured directly or collaterally by a lien on real property or a real property sales contract, as agent for and at the direction of the lender, borrower, or purchaser, including, but not limited to, the payment of taxes, insurance premiums or costs of foreclosure, if all such costs, excluding routine office expenses, of such services are paid by or payable by borrower, lender or purchaser shall not be construed to be an investment contract under subparagraph (A) of this subdivision. As used in this subdivision, "promotional note" means a promissory note secured by a trust deed executed on unimproved real property, or executed after construction of an improvement of the property but before the first sale of the property as so improved, or executed as a means of financing the first purchase of the property as so improved, and which is subordinate or which by its terms may become subordinate to any other trust deed on the property, but does not include a note which was executed in excess of three years prior to being offered for sale or a note secured by a first trust deed on real property in a subdivision, which evidences a bona fide loan made in connection with the financing of the usual costs of the development of a residential, commercial, or industrial building or buildings on the property under a written agreement providing for the disbursement of the loan funds as costs are incurred or in relation to the progress of the work and providing for title insurance insuring the priority of the security as against mechanic's liens or for the final disbursement of at least ten per cent of the loan funds after the expiration of the period for the filing of mechanic's liens. "Real property security" does not include any bond, debenture or note which is one of a series of notes of equal priority secured by an interest in the same real property.

(3) "Sale" or "sell" includes every issuance, creation for resale, disposition or attempt to dispose of a real property security for value and includes all of the following, whether done directly or by circular letter, advertisement, radio or television broadcast or otherwise: (A) An offer to sell, (B) an attempt to sell, (C) a solicitation of a sale, (D) a contract of sale or (E) an exchange. (b) The sale to pension, retirement or similar trust funds, to corporations, to any bank and trust company, savings bank, savings and loan association, credit union or national banking association, to real estate brokers or to attorneys shall not be deemed a sale to the public for the purpose of sections 20-329a to 20-329bb, inclusive.

Sec. 20-329p. License and endorsement requirements. No person shall act as a real property securities dealer in this state without first having obtained a real estate broker's license under this chapter and having an endorsement attached to such license, in such form as may be prescribed by the commission, stating that the licensee is entitled to deal in real property securities. Application for such endorsement shall be made in writing to the commission in such form as the commission may prescribe.

Sec. 20-329q. Statement to purchaser. (a) Every real property securities dealer selling or attempting to sell any real property security shall personally sign and deliver to the purchaser a statement in writing, containing all the information required by subsection (b) of this section before the purchaser shall be obligated to complete the transaction. No such real property securities dealer shall permit a purchaser to sign the statement if any information required by said subsection (b) is omitted. The real property securities dealer shall retain an executed copy of the statement for four years.

(b) The statement required by subsection (a) of this section shall be in a form prescribed and approved by the commission and shall include, but not be limited to, the following information:

- (1) The legal description or address of the property subject to the lien securing the note or contract being made or sold;
- (2) The name and address of the fee owner of the property subject to the lien securing the note or contract being made or sold;
- (3) Available information relative to the ability of the person liable on the obligation to meet such person's contractual payments;
- (4) Any improvements on the property or the absence of such improvements;
- (5) Any streets, sewers, water mains, curbs and gutters on or adjacent to the property or the absence thereof;
- (6) Terms and conditions of the contract or note being made or sold, including the principal balance owing thereon, and the status of principal and interest payments thereon;
- (7) A statement of the approximate balloon payment on the note or contract being made or sold, which shall appear prominently in words and figures;
- (8) If available, the terms and conditions of all prior recorded encumbrances which constitute liens upon the property, the principal balance of such encumbrances, and the status of principal and interest payments thereon;
- (9) Amounts and terms of tax liens and assessments, if available;
- (10) A written statement of the real property securities dealer's considered opinion of the current fair market value of the property and of the equity in the property securing the note or contract or that the purchaser will obtain his own appraisal of such property;
- (11) Whether the real property securities dealer is acting as a principal or as an agent;

(12) A statement that the transaction is in compliance with the provisions of sections 20-329o to 20-329bb, inclusive; and

(13) Such other information as the commissioner of consumer protection, with the advice and assistance of the commission, may require by regulation adopted in accordance with chapter 54.

**Sec. 20-329r. Appraisal of real property.** An appraisal of each parcel of real property which relates to a transaction subject to the provisions of section 20-329o to 20-329bb, inclusive, shall be made by the real property securities dealer or by an independent appraiser unless the purchaser of the obligation to which the parcel relates indicates on the form required by subsection (b) of section 20-329q, pursuant to subdivision (10) of said subsection, that the purchaser will obtain his own appraisal. An appraisal by the real property securities dealer or his agent made pursuant to this section shall be kept on file for four years.

**Sec. 20-329s. Filing and approval of materials to be used by dealer.** Every real property securities dealer shall file with the commission, ten days prior to use, true copies of all material which pertains to activities subject to sections 20-329o to 20-329bb, inclusive. The commission shall approve or disapprove such material within ten days of receiving such material. If the commission fails to give notice to the real property securities dealer of its disapproval of any such material within ten days of receiving such material, the commission shall be deemed to have approved such material. No real property securities dealer shall use any such material in any way after the commission gives notice in writing that such material contains any statement that is false or misleading or omits to state material information that is necessary to make any statement in such material complete and accurate.

**Sec. 20-329t. Annual financial report.** (a) Every real property securities dealer shall file with the commission, annually, a report containing financial statements in accordance with generally accepted accounting principles, accompanied by an opinion thereon by a certified public accountant based upon an audit of the real property securities dealer's business subject to sections 20-329o to 20-329bb, inclusive, which is not materially restricted in scope. The report shall be filed with the commission within sixty days after the close of the period of the report unless, for good cause shown, the commission, in writing, extends the time for filing the report. The report shall include, but shall not be limited to: (1) The total number of sales, as principal or agent, subject to said sections during the period; (2) information relating to the receipt and disposition of all funds handled in connection with transactions subject to said sections; and (3) the total dollar volume of such sales.

(b) The commissioner of consumer protection, with the advice and assistance of the commission, may, by regulation adopted in accordance with chapter 54, require such additional information in such report as the commissioner may deem necessary.

(c) In the event that a real property securities dealer fails to file a report pursuant to this section the commissioner may cause an audit to be made and shall charge and collect the cost of the audit from such dealer.

**Sec. 20-329u. Desist order for violation. Appeal.** Whenever the commission finds that (1) any person is violating the provisions of sections 20-329o to 20-329bb, inclusive, (2) any person is conducting business as a real property securities dealer or issuer in an unsafe or injurious manner, (3) the further sale of real property securities by any person under the provisions of said sections would be unfair, unjust or inequitable, or (4) the method used by any person in the sale of real property securities would work a fraud upon the purchasers, the commission may order such person to desist and refrain from violating the provisions of said sections or from further sales of real property securities. Any person aggrieved by any order issued by the commission under this section may appeal under section 20-329aa.

**Sec. 20-329v. Permit to sell real property security required. Application.** (a) No real property security shall be sold to the public without either the issuer or the real property securities dealer first obtaining a permit from the commission.

(b) Each application for a permit to sell any real property securities shall be made in writing, on such forms and in such manner and accompanied by such evidence in support of such application as is prescribed by the commission. The commission may require such information with regard to the applicant as the commission deems desirable, with due regard to the paramount interests of the public as to the honesty, truthfulness, integrity and competency of the applicant. The commissioner of consumer protection, with the advice and assistance of the commission, may, by regulation adopted in accordance with chapter 54, establish reasonable filing fees, which shall not be less than forty dollars. Such fees shall be deposited in the general fund.

**Sec. 20-329w. Issuance or denial of permit. Limitation of commission's authority. Hearing.** (a) If the commission finds, in connection with an application filed under section 20-329v, that (1) the proposed plan of business of the applicant and the proposed sale of real property securities is fair, just and equitable, (2) the applicant intends to transact business fairly and honestly, and (3) the real property securities which the applicant proposed to sell are not such as, in the opinion of the commission will work a fraud upon the purchaser of such real property securities, the commission shall issue to the applicant a permit authorizing the applicant to sell such real property securities in such amounts and for such considerations and upon such terms and conditions as the commission may provide in the permit. If the commission does not make such findings, the commission shall deny the application, refuse the permit and notify the applicant in writing of its decision. The authority to issue a permit under this section shall not empower the commission to authorize the sale of notes or contracts under a plan which provides for the establishment of investment participation pools based upon such notes or contracts or authorize the issuance of certificates based upon notes or contracts being used as collateral for the certificates.

(b) Any applicant aggrieved by the refusal of a permit under this section or the conditions of any permit issued under this section shall be given notice and afforded an opportunity for hearing as provided in the regulations adopted by the commissioner of consumer protection.

**Sec. 20-329x. Prohibited acts. Penalty.** Any person shall be fined not more than five thousand dollars or imprisoned not less than one year and not more than five years, or both fined and imprisoned, if such person: (1) In any application to the commission or in any proceeding before the

commission, or in any examination, audit or investigation made by the department of consumer protection under this chapter, knowingly makes any false statement or representation, or, with knowledge of its falsity, files or causes to be filed with the commission any false statement or representation in a required report;

(2) Issues, circulates or publishes, or causes to be issued, circulated or published any advertisement, pamphlet, prospectus or circular concerning any real property security which contains any statement that is false or misleading, or is otherwise likely to deceive a reader thereof, with knowledge that it contains such false, misleading or deceptive statement;

(3) In any respect willfully violates or fails to comply with any provision of sections 20-329o to 20-329bb, inclusive, or willfully violates or fails, omits or neglects to obey, observe or comply with all or any part of any order, decision, demand, requirement or permit of the commission under said sections; or

(4) With one or more other persons, conspires to violate any permit or order issued by the commission or any provision of said sections.

Sec. 20-329y. Civil action for injury from transaction. Any person sustaining any injury resulting from a transaction subject to sections 20-329o to 20-329bb, inclusive, which was in violation of the provisions of said sections may recover in a civil action the amount of the damages with interest of seven per cent per annum from the date of the injury, and shall be entitled to be awarded reasonable attorney's fees. Any such action shall be brought within three years from the date of the transaction notwithstanding the date the injury was discovered.

Sec. 20-329z. Regulations. The commissioner of consumer protection, with the advice and assistance of the commission, may adopt such reasonable regulations, in accordance with chapter 54, as the commissioner deems necessary to carry out the provisions of sections 20-329o to 20-329bb, inclusive.

Sec. 20-329aa. Appeal. Any person aggrieved by any decision or order of the commission under sections 20-329o to 20-329bb, inclusive, may appeal from such decision or order in accordance with the provisions of section 4-183.

Sec. 20-329bb. Exemptions. (a) The provisions of sections 20-329o to 20-329bb, inclusive, shall not apply to any securities dealer who is not engaged in the offering for sale of any real property securities.

(b) Any real property securities dealer who is required to be licensed and to obtain a permit under the provisions of said sections shall be exempt from the provisions of sections 36a-380 to 36a-386, inclusive, 36a-395 to 36a-399, inclusive, 36a-535 to 36a-546, inclusive, and 36b-2 to 36b-33, inclusive.

(c) The provisions of said sections shall not apply to transactions involving a promissory note or notes, the payment of which is secured in whole or in part by a mortgage deed or deeds.

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## PSYCHOLOGICALLY IMPACTED PROPERTY

Sec. 20-329cc. "Psychologically impacted" defined. As used in sections 20-329cc to 20-329ff, inclusive, "psychologically impacted" means the effect of certain circumstances surrounding real estate which includes, but is not limited to: (1) The fact that an occupant of real property is, or was at any time suspected to be, infected or has been infected with the human immunodeficiency syndrome, as defined in section 19a-581; or (2) the fact that the property was at any time suspected to have been the site of a homicide, other felony or a suicide

Sec. 20-329dd. Psychological impact. No disclosure required. No cause of action. (a) The existence of any fact or circumstance which may have a psychological impact on the purchaser or lessee is not a material fact that must be disclosed in a real estate transaction.

(b) No cause of action shall arise against an owner of real estate, his or her agent or any agent of the transferee for the failure to disclose to the transferee that the transferred property was psychologically impacted, as defined in section 20-329cc.

Sec. 20-329ee. Purchaser or lessee written disclosure request. Notwithstanding sections 20-329cc and 20-329dd, if a purchaser or lessee of real estate, who was in the process of making a bona fide offer, advises an owner of real estate or his or her agent, in writing, that knowledge that the property was at any time suspected to have been the site of a homicide, other felony or a suicide is important to the purchaser's decision to purchase or lease the property, the owner through his or her agent shall report any findings to the purchaser or lessee, in writing subject to and consistent with applicable laws of privacy. If the owner refuses to disclose such information, his or her agent shall so advise the purchaser or lessee in writing.

Sec. 20-329ff. Legal rights retained for physical deficiencies. Nothing in sections 20-329cc to 20-329ff, inclusive, shall alter the legal rights of a purchaser, lessee, seller or lessor of real estate for physical deficiencies of the transferred property.

Sec. 20-329gg. Exemptions. Federal transactions. Section 20-329gg is repealed.

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**NEW SECTIONS FROM PUBLIC ACT 01-88 (COMMERCIAL REAL ESTATE BROKERAGE LEASE NOTIFICATION)**

(a) If a landlord or tenant in a commercial real estate transaction enters into an agreement pursuant to subsection (b) or (c) of section 20-325a of the general statutes for the payment of compensation, or the promise of payment, to a real estate broker in consideration for brokerage services rendered in connection with the consummation of a written lease, then notwithstanding any provision of law under which such compensation may otherwise be considered the personal obligation of the original landlord or tenant specifically named in the written lease, the agreement shall constitute a binding contractual obligation of such landlord or tenant, as the case may be, and the landlord's or tenant's grantees, successors and assigns. Upon any sale, transfer, assignment or other disposition, including, but not limited to, any such disposition by reason of the enforcement of a mortgage, lien, deed to secure debt or other security instrument of a landlord's interest in real property or upon any sale, assignment, transfer or other disposition of a tenant's leasehold interest, the succeeding party shall be bound for all obligations under such agreement accruing after the sale, transfer, assignment or other disposition with the same effect as if such succeeding party had expressly assumed the landlord's or tenant's obligations relating to the written agreement if: (1) The real estate broker has complied with the provisions of subsections (b) to (d), inclusive, of this section; (2) the succeeding party assumes the benefits of the tenancy; and (3) the agreement has not been waived in writing by the real estate broker.

(b) A real estate broker shall be entitled to the protections afforded by this section only upon the broker's recording a notice of commission rights in the land records in the office of the town clerk in the town in which the real property or leasehold interest is located not later than thirty days after the execution of the lease or the tenant's occupancy of the leased premises, whichever is later. The notice of commission rights shall (1) be filed before conveyance of the real property, (2) be signed by the real estate broker or by a person expressly authorized to sign on behalf of the broker, and (3) be in substantially the following form:

**NOTICE OF COMMISSION RIGHTS**

The undersigned licensed Connecticut real estate broker does hereby publish this NOTICE OF COMMISSION RIGHTS to establish that the lease referenced below was procured by a real estate broker pursuant to a written brokerage commission agreement providing for the payment or promise of payment of compensation for brokerage services.

Owner: \_\_\_\_\_  
Landlord: \_\_\_\_\_  
Tenant: \_\_\_\_\_  
Lease date: \_\_\_\_\_  
Lease term: \_\_\_\_\_  
Project or building name (if any): \_\_\_\_\_

Real estate broker name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone number \_\_\_\_\_  
Real estate license number \_\_\_\_\_

(c) Not later than thirty days after the real estate broker receives final payment of commissions due under the written brokerage commission agreement, the real estate broker shall provide the owner, tenant or mortgagee a statement, in a form suitable for recording on the land records, that indicates that the broker's commission rights are terminated.

(d) Notwithstanding any provision of this section, nothing in this section shall be construed to create a lien on the real property that is the subject of the lease.

**NEW SECTIONS FROM PUBLIC ACT NO. 02-122  
(DISCLOSURE OF CERTAIN CONDITIONS IN CONNECTION WITH THE SALE OF REAL ESTATE)**

(a) With respect to a contract for the sale of a one-to-four family residential real property, if the seller provides written notice to the purchaser, prior to, or upon, entering into the contract, of the availability of the lists of hazardous waste facilities pursuant to section 22a-134f of the general statutes, the seller and any real estate licensee shall be deemed to have fully satisfied any duty to disclose the presence of all hazardous waste facilities as defined in section 22a-134f of the general statutes, even if: (1) the list required to be submitted pursuant to section 22a-134f of the general statutes has not been submitted, (2) the list has not been received or made available as required in section 22a-134f of the general statutes, or (3) there is an error, omission or inaccuracy in the list.

(b) Nothing in this section shall be construed to impose liability on a seller or real estate licensee for failing to disclose the existence of hazardous waste facilities as defined in section 22a-134f of the general statutes.

(c) No seller or real estate licensee shall be required to compile, or contribute to the compilation of, in whole or in part, the list required pursuant to section 22a-134f of the general statutes.

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### THE USE OF REAL ESTATE ESCROW DEPOSITS FOR MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS

Sec. 8-265f. Program for use of interest earned on real estate broker or trust accounts for mortgage assistance. (a) A program for the use of interest earned on real estate broker escrow or trust accounts is hereby established. Each real estate broker having an escrow or trust account under section 20-324k of the general statutes shall participate in such program. Under the program, moneys held on behalf of any principal, client or other person shall be deposited by participating real estate brokers in interest-bearing accounts specifically established pursuant to this program. Funds deposited in such accounts shall be subject to withdrawal upon request by the depositor and without delay, provided the funds are available in accordance with federal regulations. The interest earned thereon shall be paid to the Connecticut housing finance authority for the purposes of section 8-265g. Nothing in this section shall prevent a real estate broker from depositing the funds of any principal, client or other person, regardless of the amount of such funds or the period for which such funds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the principal, client or person. The Connecticut housing finance authority shall mail to each real estate broker participating in the program a detailed annual report of the mortgage assistance provided pursuant to section 8-265g of the general statutes.

(b) This program shall not require the banking corporations or financial institutions receiving such funds, holding such accounts and paying interest thereon to the depositors of the account to perform any additional administrative functions or assume any additional responsibilities or obligations in connection with such program or the accounts so maintained. The provisions of this section shall not apply to any escrow account established and maintained pursuant to section 47a-21 of the general statutes. Nothing in this section shall be construed to impose any additional obligations on real estate brokers other than those contained in subsection (a) of this section.

Sec. 8-265g. Mortgage assistance for low or moderate income families or persons. (a) The Connecticut housing finance authority, in consultation with the advisory panel established under section 8-265h of the general statutes, shall develop and administer a program of mortgage assistance to low or moderate income families or persons, as defined in section 8-243 of the general statutes, who are first-time homebuyers and who do not have a down payment or sufficient annual income to qualify for existing mortgage assistance programs with said authority. In making mortgage assistance available under the program, the authority shall utilize down payment assistance and any other appropriate housing subsidies. The terms of any mortgage assistance shall allow the mortgagee to realize a reasonable portion of the equity gain upon sale of the mortgaged property.

(b) On or before January 1, 1992, and annually thereafter, the authority shall submit a report on the program to the advisory panel established pursuant to section 8-265h of the general statutes.

Sec. 8-265h. Housing advisory panel. (a) An advisory panel shall be established to perform the functions described in subsection (b) of this section consisting of eight members to be selected as follows: Two members shall be appointed by the Governor, one of whom shall be an executive director of a nonprofit corporation which provides housing in this state and one of whom shall be a realtor; four members shall be appointed by the cochairpersons of the select committee of the General Assembly having cognizance of matters relating to housing, two of whom may be the cochairpersons of said committee and two of whom may be members of the General Assembly and two members shall be appointed by the ranking member of the House of Representatives of the select committee of the general assembly having cognizance of matters relating to housing. Each member of the panel shall serve for a term which is coterminous with the term of his appointing authority. A vacancy shall be filled by the original appointing authority for the balance of the unexpired term.

(b) The advisory panel shall: (1) Consult with and make recommendations to the Connecticut housing finance authority regarding the implementation and administration of the mortgage assistance program established pursuant to section 8-265g, including the methods of allocation and the allocation of funds to be disbursed under such program; (2) review and evaluate, and monitor the impact of the program; and (3) report on the program to the general assembly as may from time to time be requested.

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### OTHER CONNECTICUT LAWS AFFECTING REAL ESTATE BROKERS AND SALESPEOPLE

#### FAIR HOUSING

Connecticut General Statutes Chapter 814C  
Human Rights and Opportunities  
(See this chapter for Connecticut's Fair Housing Statute.)

#### APPRAISAL

Connecticut General Statutes Chapter 400g

Real Estate Appraisers  
(See this chapter for law concerning the conduct and licensing of appraisers.)

## REFERRAL FEES

Sec. 51-87b. Referral of persons to real estate brokers from attorneys. (a) No attorney-at-law admitted to practice within this state or any other person affiliated with such attorney may receive a fee, commission, or other form of referral fee for the referral of any person to (1) a real estate broker or real estate salesperson, as defined in section 20-311 of the general statutes, or any person affiliated with such broker or salesperson or any person engaged in the real estate business, as defined in said section 20-311 of the general statutes, or (2) any mortgage broker or mortgage lender, as defined in subdivision (5) of section 49-31d of the general statutes, or any person affiliated with such mortgage broker or lender.

(b) Any person who violates the provisions of subsection (a) of this section shall be subject to the provisions of section 51-87 of the general statutes.

Sec. 49-7f. Referral of persons to real estate brokers from mortgage brokers and lenders. (a) No mortgage broker or lender as defined in subdivision (5) of section 49-31d of the general statutes, or any person affiliated with such mortgage broker or lender shall receive a fee for the referral of any person to (1) a real estate broker, real estate salesperson, as defined in section 20-311 of the general statutes, or any person affiliated with such broker or salesperson or any person engaged in the real estate business, as defined in said section 20-311 of the general statutes, or (2) an attorney-at-law admitted to practice within this state or any person affiliated with such attorney.

(b) Any person who violates the provisions of subsection (a) of this section shall upon a verified complaint in writing of any person, provided such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection therewith, shall make out a prima facie case, to the commissioner of banking, who shall investigate the actions of any mortgage broker or lender, or any person who assumes to act in any of such capacities within this state. The commissioner of banking shall have the power temporarily to suspend or permanently to revoke any license issued under the provisions of chapter 660a of the general statutes, and, in addition to or in lieu of such suspension or revocation, may, in his discretion, impose a fine of not more than one thousand dollars for each offense for any violation of the provisions of subsection (a) of this section.

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## ESCROWS – Public Act 00-74 (New)

Sec. 1. (a) For the purposes of this act:

(1) "Escrow agreement" means a written or oral agreement under which money, documents, instruments or other property is delivered by a party to the agreement or another person to a third party to be held by such third party for delivery or disbursement to another party to the agreement or another person upon the occurrence of an event or condition specified in the agreement.

(2) "Escrow holder" means a third party to whom money, documents, instruments or other property is delivered for subsequent delivery or disbursement in accordance with the escrow agreement.

(b) No escrow agreement shall be ineffective, invalid or unenforceable because the escrow holder is the attorney-at-law, law firm or agent for one or more parties to the escrow agreement, whether in connection with the matter to which the escrow agreement is related or otherwise.

Sec. 2. This act shall take effect from its passage and shall be applicable to any escrow agreement in existence on or after said date.

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## POWERS AND DUTIES OF THE REAL ESTATE COMMISSION

Sec. 21a-4. Refund of fees for unused permits. Fine for payment by check returned as uncollectible. Fine for late renewal of license, certificate or registration. (a) The commissioner of consumer protection may refund to any permittee the fee paid by him for any permit issued by said commissioner and returned to him prior to its use provided application for such refund shall be made not later than sixty days after the effective date of such permit.

(b) The commissioner of consumer protection may impose a fine of twenty dollars on any applicant for a permit or license issued by the commissioner of consumer protection who issues to the commissioner a check drawn on the account of such applicant in payment of a permit or license fee and whose check is returned to the department of consumer protection as uncollectible.

(c) The commissioner of consumer protection may impose a fine on any applicant who fails to renew his license, permit, certificate or registration within thirty days of the expiration date of such license, permit, certificate or registration. Such fine shall be in an amount of either ten percent of the renewal fee or ten dollars, whichever is greater.

Sec. 21a-7. Powers and duties of boards and commissions within department of consumer protection. Each board or commission transferred to the department of consumer protection under section 21a-6 shall have the following powers and duties:

(1) Each board or commission shall exercise its statutory functions, including licensing, certification, registration, accreditation of schools and the rendering of findings, orders and adjudications, independently of the commissioner of consumer protection, the final decision of a board or commission shall be subject to judicial review as provided in section 4-183.

(2) Each board or commission may, in its discretion, issue an appropriate order to any person found to be violating an applicable statute or regulation, providing for the immediate discontinuance of the violation. Each board or commission may, through the attorney general, petition the superior court for the county wherein the violation occurred, or wherein the person committing the violation resides or transacts business, for the enforcement of any order issued by it and for appropriate temporary relief or a restraining order and shall certify and file in the court a transcript of the entire record of the hearing or hearings, including all testimony upon which such order was made and the findings and orders made by the board or commission. The court may grant such relief by injunction or otherwise, including temporary relief, as it deems equitable and may make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, any order of a board or commission.

(3) Each board or commission may conduct hearings on any matter within its statutory jurisdiction. Such hearings shall be conducted in accordance with chapter 54 and the regulations established pursuant to subsection (a) of section 21a-9. In connection with any such hearing, the board or commission may administer oaths, issue subpoenas, compel testimony and order the production of books, records and documents. If any person refuses to appear, testify or produce any book, record or document when so ordered, a judge of the superior court may make such order as may be appropriate to aid the enforcement of this section.

(4) Each board or commission may request the commissioner of consumer protection to conduct an investigation and to make findings and recommendations regarding any matter within the statutory jurisdiction of the board or commission.

(5) Each board or commission may recommend rules and regulations for adoption by the commissioner of consumer protection and may review and comment upon proposed rules and regulations prior to their adoption by said commissioner.

(6) Each board or commission shall meet at least once in each quarter of a calendar year and at such other times as the chairperson deems necessary or at the request of a majority of the board or commission members. A majority of the members shall constitute a quorum. Any member who fails to attend three consecutive meetings or who fails to attend fifty percent of all meetings during any calendar year shall be deemed to have resigned from office. Members of boards or commission shall not serve for more than two consecutive full terms which commence on or after July 1, 1982, except that if no successor has been appointed or approved, such member shall continue to serve until a successor is appointed or approved. Members shall not be compensated for their services but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(7) In addition to any other action permitted under the general statutes, each board or commission may upon finding of any cause specified in subsection (c) of section 21a-9: revoke or suspend a license, registration or certificate; issue a letter of reprimand to a practitioner and send a copy of such letter to a complainant or to a state or local official; place a practitioner on probationary status and require the practitioner to report regularly to the board or commission on the matter which is the basis for probation, limit his practice to areas prescribed by the board or commission or, to continue to renew his education until he has attained a satisfactory level of competence in any area which is the basis for probation. Each board or commission may discontinue, suspend or rescind any action taken under this subsection.

Sec. 21a-8. Department of consumer protection's powers and duties re boards and commissions. The department of consumer protection shall have the following powers and duties, with regard to each board or commission transferred to the department of consumer protection under section 21a-6:

(5) The department shall administer any examinations necessary to ascertain the qualifications of applicants for licenses or certificates and shall issue licenses or certificates to qualified applicants. The department shall maintain rosters of licensees or registrants updated annually and may provide copies of rosters to the public for an appropriate fee.

(6) The department shall conduct any necessary investigation and follow-up in connection with complaints regarding persons subject to regulation or licensing by the board or commission.

(7) The department shall perform any other function necessary to the effective operation of the board or commission and not specifically vested by statute in the board or commission.

(8) The department shall receive complaints concerning the work and practices of persons licensed, registered or certified by such boards or commissions and shall receive complaints concerning unauthorized work and practice by persons not licensed, registered or certified by such boards or commissions. The department shall distribute monthly a list of all complaints received within the previous month to the chairperson of the appropriate board or commission. The department shall screen all complaints and dismiss any in which the allegation, if substantiated, would not constitute a violation of any statute or regulation. The department shall distribute notice of all such dismissals monthly to the chairperson of the appropriate board or commission. The department shall investigate any complaint in which the allegation, if substantiated, would constitute a violation of a statute or regulation under its jurisdiction. In conducting the investigation, the commissioner may seek the assistance of a member of the appropriate board, an employee of any state agency with expertise in the area, or if no such member or employee is available, a person from outside state service licensed to perform the work involved in the complaint. Board or commission members involved in an investigation shall not participate in disciplinary proceedings resulting from such investigation. The commissioner of consumer protection may dismiss a complaint following an investigation if he determines that such complaint lacks probable cause. Notice of such dismissal shall be given only after approval by the chairperson of the appropriate board or commission. The commissioner may authorize a settlement if the settlement is approved by the complainant, the practitioner, and the board or commission. The commissioner may bring a complaint before the appropriate board or commission for a formal hearing if he determines that there is probable cause to believe that the offense alleged in the complaint has been committed and that the practitioner named in the complaint was responsible. The commissioner, or the commissioner's authorized agent, shall have the power to issue subpoenas to require the attendance of witnesses or the production of records, correspondence, documents or other evidence in connection with any hearing of a board or commission. All dispositions and final decisions by the department of consumer protection after an investigation into a complaint has begun shall be forwarded to the chairperson of the appropriate board or commission on a monthly basis.

(9) The department may contract with a third party, if the commissioner deems it necessary and if the appropriate board or commission consents, to administer licensing examinations and perform all attendant administrative functions in connection with such examination and may require the payment of an examination fee to such third party.



Sec. 21a-9. Uniform rules of procedure. Regulations re subjects within jurisdiction of boards and commissions within department of consumer protection. Prohibited acts by practitioners. Definitions. (a) With regard to the boards and commissions transferred to the department of consumer protection, the commissioner of consumer protection (1) shall establish uniform rules of procedure, consistent with chapter 54, for hearings and other proceedings to be conducted by the boards or commissions and for the giving of notice to persons affected by such proceedings, and (2) may, where authorized by statute, establish regulations regarding any subject within the jurisdiction of a board or commission.

(b) Any rules and regulations established pursuant to this section shall be established as provided in chapter 54. No regulation shall be adopted pursuant to this section until the appropriate board or commission has had reasonable opportunity to review the proposed regulation and to offer comments thereon.

(c) Each such board or commission may act in accordance with the provisions of subdivision (7) of section 21a-7, in the case of a practitioner who: (1) Knowingly engages in fraud or material deception in order to obtain a license, registration or certificate or doing so in order to aid another in obtaining a license; (2) performs work beyond the scope of the license, registration or certificate issued by the board or commission; (3) illegally uses or transfers a license, registration or certificate issued by the board or commission; (4) performs incompetent or negligent work; (5) knowingly makes false, misleading or deceptive representations to the public regarding work to be performed; or (6) violates any provision of the general statutes or any regulation established thereunder, relating to his profession or occupation.

(d) As used in chapters 382, 390, 391, 392, 393, 394, 396, 451 and 482:

(1) "Certificate" includes the whole or part of any department of consumer protection permit which the department issues under authority of the general statutes and which (A) authorizes practice of the profession by certified persons but does not prohibit the practice of the profession by others, not certified, (B) prohibits a person from falsely representing that he is certified to practice the profession unless the person holds a certificate issued by the department and (c) requires as a condition of certification that a person submit specified credentials to the department which attest to qualifications to practice the profession.

(2) "License" includes the whole or part of any department of consumer protection permit, approval, or similar form of permission which the department issues under authority of the general statutes and which requires (A) practice of the profession by licensed persons only, (B) demonstration of competence to practice by examination or other means and meeting of certain minimum standards and (c) enforcement of standards by the department or regulatory board or commission.

(3) "Registration" includes the whole or part of any permit which the department issues under authority of the general statutes and which (A) requires persons to place their names on a list maintained by the department before they can engage in the practice of a specified profession or occupation, (B) does not require a person to demonstrate competence by examination or other means and (c) may be revoked or suspended by the commissioner for cause.

#### UNIFORM ADMINISTRATIVE PROCEDURE ACT

Sec. 4-182. Matters involving licenses. (a) When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Sec. 46a-80. Denial of employment based on prior conviction of crime. Dissemination of arrest record prohibited. (a) Except as provided in subsection (b) of this section and subsection (b) of section 46a-81, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state of Connecticut or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state of Connecticut or any of its agencies solely because of a prior conviction of a crime.

(b) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state, or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought.

(c) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(d) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certification or registration.



## REGULATIONS CONCERNING PASSING SCORES FOR BROKERS, SALESPERSONS AND APPRAISERS

Sec. 20-314-1. Passing score to attain real estate broker's license. A score of at least 75% must be attained by an applicant in order to pass the personal written examination for a Real Estate Broker's license given by the Department of Consumer Protection or a national testing service.

Sec. 20-314-2. Passing score to attain real estate salesperson's license. A score of at least 70% must be attained by an applicant in order to pass the personal written examination for a Real Estate Salesperson's license given by the Department of Consumer Protection or a national testing service.

Section 20-314-3. Passing score to attain real estate appraiser's license. A passing score of at least 75 must be attained by an applicant in order to pass the personal written examination for the Real Estate Appraisers license given by the Department of Consumer Protection or National Testing Service.



## REGULATIONS CONCERNING MORTGAGE BROKERAGE FEES CHARGED BY REAL ESTATE BROKERS AND SALESMEN

Sec. 20-325c-1. Definitions. As used in Sections 1 to 5, inclusive, of these regulations: (a) "Buyer" means any buyer of residential real property; and (b) "Broker" means any real estate broker or real estate salesman as defined in Section 20-311 of the Connecticut General Statutes and any person affiliated with such real estate broker or salesman.

Sec. 20-325c-2. Scope of regulations. Any fee, commission, or other valuable consideration received by a broker for negotiating, soliciting, arranging, placing, or finding a first mortgage loan for a buyer of residential real property, which is in addition to the consideration received by such broker for the sale of such property, shall be in accordance with these regulations.

Sec. 20-325c-3. Written agreement. Prior to the accrual of any charges for mortgage brokering services performed by a broker on behalf of a buyer, the broker and buyer shall execute a written agreement. The terms of the agreement, in addition to any disclosures required by law, shall include, but not be limited to, the amount, term and type of first mortgage loan that the buyer seeks to obtain, the maximum rate of interest and number of points that a buyer would pay, an approximate loan closing date, the hourly rate upon which the fee, commission, or other valuable consideration to be received by a broker is based and a description of the manner in which any such fee, commission, or other valuable consideration will be determined. The agreement shall specify that a buyer who finds a loan without the assistance of the broker or who does not consummate the purchase of the property will not be obligated to pay any consideration to the broker. Amendments to the agreement shall be in writing and signed by the parties.

Sec. 20-325c-4. Fee. Commission. Consideration. Any fee, commission, or other valuable consideration received by a broker for assisting a buyer in obtaining a first mortgage loan shall be based on a reasonable hourly rate. An hourly rate may accrue for any bona fide activity performed by the broker when negotiating, soliciting, arranging, placing, or finding a first mortgage loan for a buyer, including, but not limited to, the time spent with the buyer discussing financing options, completing applications, negotiating with prospective lenders, and performing underwriting activities.

Sec. 20-325c-5. Itemized invoice required. The broker shall maintain a written record of the amount of time spent in negotiating, soliciting, arranging, placing, or finding a first mortgage loan for a buyer. In addition, prior to the receipt of any fee, commission, or other valuable consideration, the broker shall provide the buyer with an itemized invoice of the services rendered, which shall include the hourly rate and the number of hours or fractions thereof spent on each service. A copy of the invoice and written record shall be maintained by the broker for a period of two years from the date of the invoice.



## REGULATIONS CONCERNING DISCLOSURE OF REPRESENTATION

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) "Salesperson" or "Real estate salesperson" means "real estate salesperson" 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 salesperson 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 salesperson 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 salesperson 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 salesperson.

**Sec. 20-325d-2. Agency Disclosure.** (a) A real estate broker or real estate salesperson, 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 the following form:

**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 broker and salespersons (referred to as agents or licensees) in this transaction owes the other party to this transaction undivided fiduciary obligations, such as: loyalty, reasonable care, disclosure, and 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) (1) 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.

(2) 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.

Sec. 20-325d-3. Repealed.

Sec. 20-325d-4. Repealed.

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 salesperson, and shall be attached to any offer, binder, option or 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 20-325-2 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.

(c) *Repealed.*

Sec. 20-325d-6. Disclosure By Listing and Cooperating Agencies. (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.

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

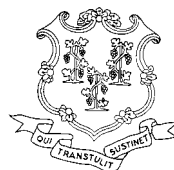
(2) the licensee provides the disclosure to the successful bidder prior to the time a written offer to purchase is executed.



## REGULATIONS CONCERNING PROPERTY CONDITION DISCLOSURE

Sec. 20-327b-1. Residential Property Condition Disclosure Report. The following form shall be used by sellers who are required by Section 20-327b of the Connecticut General Statutes to provide a written residential property condition disclosure report to prospective purchasers.

**CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION**



**RESIDENTIAL PROPERTY CONDITION DISCLOSURE REPORT**

Seller's Name:

Property Address:

The Uniform Property Condition Disclosure Act (Public Act No. 95-311) requires the seller of residential property to provide this disclosure to the prospective purchaser prior to the prospective purchaser's execution of any binder, contract to purchase, option, or lease containing a purchase option. These provisions apply to the transfer of residential real property of four dwelling units or less made with or without the assistance of a licensed broker or salesperson. The seller will be required to credit the purchaser with the sum of \$300.00 at closing if the seller fails to furnish this report as required by this act.

Please note that Connecticut law requires the owner of any dwelling in which children under the age of 6 reside to abate or manage materials containing toxic levels of lead.

Pursuant to the Uniform Property Condition Disclosure Act, the seller is obligated to disclose here any knowledge of any problem regarding the following:

YES	NO	UNKN		I. GENERAL INFORMATION
-----	----	------	--	------------------------

1. How long have you occupied the property? \_\_\_\_\_ Age of structure \_\_\_\_\_
2. Does anybody other than yourself have any right to use any part of your property, or does anybody else claim to own any part of your property? If yes, explain \_\_\_\_\_  
\_\_\_\_\_
3. Is the property in a flood plain area or an area containing wetlands? \_\_\_\_\_
4. Do you have any reason to believe that the municipality may impose any assessment for purposes such as sewer installation, sewer improvements, water main installation, water main improvements, sidewalks, or other improvements? \_\_\_\_\_
5. Is the property located in an historic district? \_\_\_\_\_

YES	NO	UNKN		II. SYSTEM/UTILITIES
-----	----	------	--	----------------------

6. HEATING SYSTEM problems? Explain \_\_\_\_\_  
 a. Heating System and Fuel Type \_\_\_\_\_  
 b. Is there any underground fuel tank? If yes, location and age \_\_\_\_\_
7. HOT WATER HEATER problems? Explain \_\_\_\_\_  
 Type of Hot Water Heater \_\_\_\_\_ Age \_\_\_\_\_
8. PLUMBING SYSTEM problems? Explain \_\_\_\_\_
9. SEWAGE SYSTEM problems? Explain \_\_\_\_\_  
 a. Type of sewage disposal system (central sewer, septic, cesspool, etc.) \_\_\_\_\_  
 b. If private (a) Name of service company \_\_\_\_\_  
 (b) Date last pumped \_\_\_\_\_ Frequency \_\_\_\_\_  
 c. If public (a) Is there a separate charge for sewer? yes \_\_\_\_ no \_\_\_\_  
 (b) If separate charge, is it a flat amount or metered? \_\_\_\_\_  
 (c) If flat amount, please state amount. \_\_\_\_\_  
 (d) Are there any unpaid sewer charges, and if so, state the amount? \_\_\_\_\_
10. AIR CONDITIONING problems? Explain \_\_\_\_\_  
 Air Conditioning Type: Central \_\_\_\_ Window \_\_\_\_ Other \_\_\_\_\_
11. ELECTRICAL SYSTEM problems? Explain \_\_\_\_\_
12. DRINKING WATER problems? Quality or Quantity? Explain \_\_\_\_\_  
 \_\_\_\_\_  
 a. If public drinking water:  
 (a) Is there a separate charge made for water use? Yes \_\_\_\_ no \_\_\_\_  
 (b) If separate charge, is it a flat amount or metered? \_\_\_\_\_

- (c) If flat amount, please state amount and payment dates. \_\_\_\_\_
- (d) Are there any unpaid water charges, and if so, state the amount? \_\_\_\_\_

- 13. ELECTRONIC SECURITY SYSTEM problems? Explain \_\_\_\_\_
- 14. CARBON MONOXIDE OR SMOKE DETECTOR problems? Explain \_\_\_\_\_
- 15. FIRE SPRINKLER SYSTEM problems? Explain \_\_\_\_\_

YES	NO	UNKN	<b>III.</b>	<b>BUILDING/STRUCTURE/IMPROVEMENTS</b>
-----	----	------	-------------	--

- 16. FOUNDATION/SLAB problems/settling? Explain \_\_\_\_\_
- 17. BASEMENT Water/Seepage/Dampness? Explain amount, frequency and location. \_\_\_\_\_  
\_\_\_\_\_
- 18. SUMP PUMP problems? If yes, explain \_\_\_\_\_
- 19. ROOF leaks, problems? Explain \_\_\_\_\_  
Roof type \_\_\_\_\_ Age \_\_\_\_\_
- 20. INTERIOR WALLS/CEILING problems? Explain \_\_\_\_\_
- 21. EXTERIOR SIDING problems? Explain \_\_\_\_\_
- 22. FLOOR problems? Explain \_\_\_\_\_
- 23. CHIMNEY/FIREPLACE/WOOD OR COAL STOVE problems? Explain \_\_\_\_\_  
\_\_\_\_\_
- 24. Any knowledge of FIRE/SMOKE damage? Explain \_\_\_\_\_
- 25. PATIO/DECK problems? Explain \_\_\_\_\_  
If made of wood, is wood treated or untreated? \_\_\_\_\_
- 26. DRIVEWAY problems? Explain \_\_\_\_\_
- 27. TERMITES/INSECT/RODENT/PEST INFESTATION problems? Explain \_\_\_\_\_  
\_\_\_\_\_
- 28. IS HOUSE INSULATED? Type \_\_\_\_\_ Location \_\_\_\_\_
- 29. ROT AND WATER DAMAGE problems? Explain \_\_\_\_\_
- 30. WATER DRAINAGE problems? Explain \_\_\_\_\_
- 31. Are ASBESTOS CONTAINING INSULATION OR BUILDING MATERIALS present? \_\_\_\_\_  
If yes, location \_\_\_\_\_
- 32. Is LEAD PAINT present? If yes, location \_\_\_\_\_
- 33. Is LEAD PLUMBING present? If yes, location \_\_\_\_\_
- 34. Has test for RADON been done? If yes, attach copy.  
State whether a radon control system is in place. \_\_\_\_\_

The Seller should use this area to further explain any item above. Attach additional pages if necessary and indicate here \_\_\_\_ the number of additional pages attached.

**I. Seller's Certification**

To the extent of the Seller's knowledge as a property owner, the Seller acknowledges that the information contained above is true and accurate for those areas of the property listed. In the event a real estate broker or salesperson is utilized, the Seller authorizes the brokers or salespersons to provide the above information to prospective buyers, selling agents or buyer's agents.

DATE \_\_\_\_\_ SELLER \_\_\_\_\_ SELLER \_\_\_\_\_  
 (Signature) (Type or Print)

DATE \_\_\_\_\_ SELLER \_\_\_\_\_ SELLER \_\_\_\_\_  
 (Signature) (Type or Print)

### II. Responsibilities of Real Estate Brokers

This report in no way relieves a real estate broker of his or her obligation under the provisions of Section 20-328-5a of the Regulations of Connecticut State Agencies to disclose any material facts. Failure to do so could result in punitive action taken against the broker, such as fines, suspension or revocation of license.

### III. Statements Not to Constitute a Warranty

Any representations made by the seller on this report shall not constitute a warranty to the buyer.

### IV. Nature of Disclosure Report

This residential disclosure report is not a substitute for inspections, tests, and other methods of determining the physical condition of the property.

### V. Information on the Residence of Convicted Felons

Information concerning the residence address of a person convicted of a crime may be available from law enforcement agencies or the Department of Public Safety. The Department of Public Safety maintains a site on the internet at [www.state.ct.us/dep/](http://www.state.ct.us/dep/) listing information about the residence address of persons required to register with the Department of Public Safety pursuant to the General Statutes.

### VI. Buyer's Certification

The buyer is urged to carefully inspect the property and, if desired, to have the property inspected by an expert. The buyer understands that there are areas of the property for which the seller has no knowledge and that this disclosure statement does not encompass those areas. The buyer also acknowledges that the buyer has read and received a signed copy of this statement from the seller or seller's agent.

DATE \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER \_\_\_\_\_  
 (Signature) (Type or Print)

DATE \_\_\_\_\_ BUYER \_\_\_\_\_ BUYER \_\_\_\_\_  
 (Signature) (Type or Print)

*Questions or Comments? Consumer Problems? Call the Department of Consumer Protection at 1-800-842-2649*

## REGULATIONS CONCERNING THE CONDUCT OF REAL ESTATE BROKERS AND SALESPERSONS

Sec. 20-328-1a. Definitions. For purposes of sections 20-328-1a through 20-328-10a, the following terms shall have the meanings indicated:

(a) "Blockbusting" means to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, religion, color, national origin, ancestry, sex, familial status, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation or physical or mental disability, including but not limited to blindness or deafness;

(b) "Broker" or "Real estate broker" means "real estate broker" as this term is defined by Connecticut General Statutes, section 20-311 (1), as amended;

(c) "Commercial real estate transaction" means "commercial real estate transaction" as defined in Connecticut General Statutes, section 20-311 (9), as amended;

(d) "Licensee" means "Real estate broker" or "real estate salesperson" as these terms are defined by Connecticut General Statutes, section 20-311 (1) and (2);

(e) "Net listing" means a listing contract in which the broker receives as a commission all excess moneys over and above the minimum sales price agreed upon by the broker and seller;

(f) "Salesperson" or "Real estate salesperson" means "real estate salesperson" as this term is defined by Connecticut General Statutes, section 20-311 (2); and

(g) "Steering" means to restrict or attempt to restrict, because of race, creed, religion, color, national origin, ancestry, sex, familial status, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation or physical or mental disability, including but not limited to blindness or deafness, the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

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) No licensee shall submit to an owner a written offer to purchase or lease real property unless either (1) such offer contains the essential terms and conditions of the offer, including the manner in which the purchase is to be financed; or (2) such offer is conditioned upon the later execution of a bond for deed or complete agreement for sale. 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: (1) the principal amount of the mortgage the prospective buyer must obtain; (2) the time period within which the mortgage commitment must be obtained; and (3) the term of years of the mortgage.

(e) (1) The listing real estate broker shall submit all offers or counter-offers to the seller, owner or lessor as quickly as possible. Unless the listing real estate broker and the seller, owner or lessor agree otherwise, the listing real estate 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 real estate 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 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 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 real estate 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 real estate brokers upon mutually agreed upon terms when it is in the best interests of the party or parties for whom the broker is acting.

Sec. 20-328-3a. Duty to cooperate with Department and Real Estate Commission. A licensee shall cooperate with department staff if the licensee is contacted in connection with an investigation performed by the Department of Consumer Protection concerning possible violations of real estate statutes or regulations. A licensee shall not make any untruthful or misleading statements in connection with any Department of Consumer Protection or Real Estate Commission investigation or hearing.

Sec. 20-328-4a. Discrimination and fair housing. (a) A licensee shall neither deny equal professional services to any person nor be party to any plan or agreement to discriminate against a person or persons on the basis of race, creed, color, national origin, ancestry, sex, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation, mental disability, or physical disability, including, but not limited to, blindness or deafness. A licensee shall not violate any federal or state fair housing statute or regulation.

(b) No licensee shall participate in activities which constitute blockbusting or steering.

(c) A licensee shall place in all listing and buyer agency agreements a statement in the following form: This agreement is subject to the Connecticut General Statutes prohibiting discrimination in commercial and residential real estate transactions (C.G.S. Title 46a, Chapter 814c).

Sec. 20-328-5a. Misrepresentation, disclosure and advertising. (a) A licensee shall not misrepresent or conceal any material facts in any transaction.

(b) No licensee shall misrepresent the actual selling price of real estate to any lender or any other interested party, either verbally or through the preparation of a false sales contract.

(c) A real estate broker shall exercise diligence at all times in obtaining and presenting accurate information in the broker's advertising and representations to the public. No broker shall advertise to sell, buy, exchange, rent or lease the property of another in a manner indicating the offer to sell, buy, exchange, rent or lease such property is being made by a private party not engaged in the real estate business. The real estate broker shall neither advertise without disclosing the broker's name nor permit any person associated with the broker to use individual names, telephone numbers or mailing addresses, to the exclusion of the name of such broker.

Sec. 20-328-6a. Agreements. (a) (1) Before a licensee attempts to negotiate a sale, exchange, or lease of real estate other than a commercial real estate transaction, on behalf of the owner or lessor of real estate, the licensee shall enter into a listing agreement with the party or parties for whom the licensee will act. All listing agreements shall be in writing, properly identifying the property and containing all of the terms and conditions of the sale,



exchange or lease, including the commission to be paid, the date on which the listing agreement is entered into and its expiration date. The listing agreement shall be signed by the owner, seller or lessor or an agent authorized to act on behalf of the owner, seller or lessor only by a written document executed in the manner provided for conveyances in Connecticut General Statutes, section 47-5, and by the broker or the broker's authorized agent. The type of listing shall be clearly indicated in the listing agreement. The licensee shall deliver immediately a copy of any listing agreement to any party or parties executing the same, where such listing agreement has been prepared by such licensee or under the licensee's supervision and where such listing agreement relates to a real estate transaction with which the licensee is associated as a broker or a salesperson.

(2) Before a licensee attempts to negotiate a purchase, exchange or lease of real estate, other than a commercial real estate transaction, on behalf of a prospective buyer or lessee of real estate, the licensee shall enter into an agency agreement with the party or parties for whom the licensee will act. All agency agreements shall be in writing, containing all of the terms and conditions of the agency agreement, including the compensation to be paid, the date on which the agency agreement is entered into and its expiration date. The agency agreement shall be signed by the prospective buyer or lessee or an agent authorized to act on behalf of the prospective buyer or lessee only by a written document executed in the manner provided for conveyances in Connecticut General Statutes, Section 47-5, and by the broker or the broker's authorized agent. The licensee shall deliver immediately a copy of any agency agreement to any party or parties executing the same, where such agency agreement has been prepared by such licensee or under the licensee's supervision and where such buyer agency agreement relates to a real estate transaction with which the licensee is associated as a broker or salesperson.

(b) For all instruments other than listing agreements, buyer agency agreements or lessee agreements the licensee, for the protection of all parties, shall use his or her best efforts to assure that all contractual commitments regarding real estate transactions with which the licensee is associated are in writing, dated, and express the agreement of the parties. The licensee shall deliver immediately a copy of any such instrument to any party or parties executing the same, where such instrument has been prepared by such licensee or under the licensee's supervision and where such instrument relates to a real estate transaction with which the licensee is associated as a broker or a salesperson.

(c) No licensee shall accept or enter into a net listing. In cases where the owner or the lessor wishes to list in this manner, the agreed upon fee shall be added and listings made in the usual manner.

(d) A licensee attempting to negotiate or negotiating sale, exchange or lease of a commercial real estate transaction shall obtain a listing, buyer or tenant representation agreement, memorandum, letter or other writing stating for whom the licensee will act or has acted, signed by the party for whom the licensee will act or has acted in the commercial real estate transaction, the duration of the authorization and the amount of any compensation payable to the licensee.

Sec. 20-328-7a. Deposits. (a) When a licensee receives a deposit or other moneys with respect to any transaction in which the licensee is engaged on behalf of the real estate broker with whom the licensee is affiliated, the licensee shall promptly pay over the deposit or other moneys to such real estate broker.

(b) Any real estate broker who, in the course of the real estate broker's real estate business and in connection with any transaction, accepts from any principal, client or other person any moneys, to which the real estate broker is not personally and legally entitled, including but not limited to any down payment, earnest money, deposit, rental money or other money to be held by the real estate broker in trust, shall deposit such moneys in an escrow or trust account in a bank doing business in the State of Connecticut unless otherwise required by law.

Sec. 20-328-8a. Commissions and compensation. (a) No licensee shall demand compensation unless reasonable cause for payment of compensation exists.

(b) When an owner, lessor, prospective buyer or lessee wrongfully fails or is unable to consummate a transaction, the real estate broker has no right to any portion of the money, if any, deposited with the real estate broker even though compensation may have been earned.

(c) While engaging in the real estate business, a licensee shall not accept any commission, rebate, or profit on expenditures made for the licensee's principal without the knowledge and consent of the licensee's principal.

(d) A licensee shall not accept compensation from more than one party in a real estate transaction without notifying all parties to the transaction prior to the closing.

(e) No licensee shall offer, promise, allow, give, pay or rebate, directly or indirectly, any part or share of the licensee's commission or compensation arising or accruing from any real estate transaction to any person who is engaging in the real estate business and who was not licensed as a real estate broker or real estate salesperson at the time the real estate broker or real estate salesperson performed the acts or rendered the services for which the licensee offers, promises, allows, gives, pays or rebates such commission or compensation.

(f) If a licensee receives or is awarded any compensation with respect to any transaction in which the licensee is engaged on behalf of the real estate broker with whom the licensee is affiliated, the licensee shall promptly pay over or assign such compensation to such real estate broker.

(g) In a cooperative real estate transaction, a real estate broker shall compensate the cooperating real estate broker and shall not compensate nor offer to compensate, directly or indirectly, any of the real estate salespersons or brokers employed by or affiliated with the cooperating real estate broker without the prior express knowledge and consent of the cooperating broker.

Sec. 20-328-9a. Interference with agency or contract relationship. (a) A licensee shall not engage in any practice or take any action which interferes with the agency relationship of another licensee.

(b) No licensee shall induce or attempt to induce any party to a contract of sale or lease of real property to breach or terminate such contract for the purpose of substituting in lieu thereof a new contract with another principal of the licensee.

(c) No licensee shall induce or attempt to induce an owner or a lessor of property to breach or terminate an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing for the purpose of substituting in lieu thereof a new listing contract. No licensee shall induce or attempt to

induce a prospective buyer or lessee to breach or terminate an exclusive representation agency agreement for the purpose of substituting a new exclusive representation agency agreement in lieu theory.

Sec. 20-328-10a. Brokers and salespersons. (a) Upon termination of the licensee's employment or affiliation with a real estate broker, a licensee shall immediately turn over to such broker any and all information and records obtained during the licensee's employment or affiliation, whether such information or records were originally given by the licensee's broker or copied from the records of such employing broker or acquired by the licensee during the licensee's employment or affiliation with the real estate broker.

(b) Upon the termination of the employment or affiliation of a licensee with a real estate broker, the real estate broker shall give the licensee, within ten days of the date on which the licensee turns over to the real estate broker any and all information and records in accordance with this section, or within forty-five days of said termination, whichever is earlier, a written accounting setting forth all active listing agreements, agency agreements, transactions, commissions and compensation in which the licensee was involved. The accounting required by this subsection shall also include a statement of the commission or compensation, if any, which the real estate broker intends to pay the salesperson on account of the active listings, agency agreements, transactions, commissions and compensation in which the licensee was involved.



**REGULATIONS CONCERNING DESIGNATED AGENCY**

Sec. 20-xxx-xx. Designated Agency Consent and Notice. The following form shall be used as written notice and consent upon the appointment of a designated seller agent or designated buyer agent.

**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, Brokerage Firm will be a **dual agent**, since Brokerage Firm represents both parties. Connecticut law allows 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
- 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 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, 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*

\_\_\_\_\_

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**CONNECTICUT REAL ESTATE COMMISSION POLICY ON USE OF UNLICENCED PERSONS BY LICENSEES**

Licensees, both brokers and salespersons, often use unlicensed persons, either employed or contracted, to perform various tasks related to a real estate transaction which do not require a license. Such persons, for example, are used as personal assistants, clerical support staff, closing secretaries, etc.

**The Connecticut Real Estate Commission prohibits unlicensed persons from negotiating, listing, selling, buying, or renting real property for another for a fee.** It is, therefore, important for employing brokers and other licensees using such persons to carefully restrict the activities of such persons so that allegations of wrongdoing under Connecticut General Statutes or State Regulations can be avoided.

Licensees should not share commissions with unlicensed persons acting as assistants, clerical staff, closing secretaries, etc. The temptation for such unlicensed persons, in such situations, to go beyond what they can do and negotiate or take part in other prohibited activities is greatly increased when their compensation is based on the successful completion of the sale.

In order to provide guidance to licensees with regard to which activities related to a real estate transaction unlicensed persons can and cannot perform, the commission establishes the following Policy:

Activities which *can* be performed by unlicensed persons who, for                      Activities which *cannot* be performed by unlicensed persons who, for

example, act as personal assistants, clerical support staff, closing secretaries, etc., include, but are not necessarily limited to:

1. Answer the phone and forward calls to licensee.
2. Transmit listings and changes to a multiple listing service.
3. Follow up on loan commitments after a contract has been negotiated.
4. Assemble documents for closing.
5. Secure documents; i.e., public information from town/city hall, courthouse, sewer district, water district, tax assessor, etc.
6. Have keys made for company listings.
7. Write and prepare ads (with review of licensee), flyers and promotional materials and place such advertising.
8. Record and deposit earnest money and other trust funds.
9. Type contract forms under direction of licensee.
10. Monitor licenses and personnel files.
11. Compute commission checks.
12. Place signs on property.
13. Order items of routine repair as directed by licensee and/or supervising broker.
14. Act as courier service to deliver documents, pick up keys, etc.
15. Schedule appointments for licensee to show listed property.
16. Measure property.

example, act as personal assistants, clerical support staff, closing secretaries, etc., include but are not necessarily limited to:

1. Host open houses, kiosks, home show booths or fairs, or hand out materials at such functions.
2. Show property.
3. Answer any questions from consumers on listing, title, financing, closing, etc.
4. Contact cooperative brokers, whether in person or otherwise, regarding any negotiations or open transactions.
5. Discuss or explain a contract, offer to purchase, agreement, listing, or other real estate document with anyone outside the firm.
6. Be paid on the basis of commission, or any amount based on listings, sales, etc.
7. Negotiate or agree to any commission, commission split or referral fee on behalf of a licensee.
8. Place calls that would require a license such as cold calls, solicit listings, contacting expired listings or for sale by owners, or extending invitations to open houses.
9. Attend inspections or pre-closing walk-through unless accompanied by licensee.
10. The unlicensed assistant is not a decision maker; rather, shall take all direction from supervising licensee.

**Employing brokers, whether they are employing unlicensed persons or whether licensees under their supervision are using unlicensed persons as personal assistants or the like, are responsible for assuring that such unlicensed persons are not involved in activities which require a license and/or activities which violate this policy.** Brokers should establish guidelines for the use of unlicensed persons and procedures for monitoring their activities. It is the responsibility of the designated broker to assure that unlicensed persons, either directly employed or contracted, or employed or contracted by licensees under his or her supervision, are not acting improperly.

**\*Adopted by the Connecticut Real Estate Commission this 5<sup>th</sup> day of December, 1996.\***



## CONNECTICUT REAL ESTATE COMMISSION POLICY ON AGENCY

### Summary

Two significant new agency laws were enacted in 1996 (Public Act 96-159) and 1999 (Public Act 99-229) that affects real estate brokerage practices. Taken together, these new laws essentially do the following four things:

- (i) Limit Subagency. In cooperating sales, there is no longer the presumption that the broker working with the buyer is the subagent of the seller. The primary purpose of this change is to encourage buyer representation. Subagency is still allowed, but for each listing shown, the seller would have to approve the subagency relationship by signing a written consent to subagency.
- (ii) Allow Dual Agency. Provides for a dual agency consent forms to be used to obtain a buyer's and seller's (or landlord and tenant's) consent to dual agency. For in-house sales, where only one brokerage firm is involved, the brokerage firm can represent both the buyer and seller as a dual agent, provided that this consent is obtained. The forms provide guidance as to what type of disclosures cannot be made in a dual agency relationship.
- (iii) Allow Designated Agency. Real estate brokers are now allowed to appoint a separate seller agent and separate buyer agent for a dual agency transaction. The designated agents are not considered dual agents.
- (iii) Protect confidential client information. Requires preservation of confidential information at any time during or after an agency relationship.

*In order to provide guidance to licensees with regard to issues related to the new laws, the Commission establishes the following policies:*

### OVERVIEW

#### 1. Agency documents

Refer to Table 1 for an outline of agency documents required to be entered into with or given to buyers and sellers.

## 2. Agency in practice

Refer to Table 2 for an outline of issues to consider regarding the practical application of agency relationships.

## 3. Agency runs to the brokerage firm, not individual licensees.

In general, agency runs from a client to the broker in a brokerage firm and all salespersons in that brokerage firm. This means that if the brokerage firm has entered into a listing agreement with a seller, then all of the brokers and salespersons in that firm are agents of that seller, represent that seller, and owe fiduciary duties to that seller. Likewise, if the brokerage firm enters into a buyer agency agreement with a buyer, then all of the brokers and salespersons in that firm are the agents of the buyer, represent that buyer, and owe fiduciary duties to that buyer. Further, once a seller consents to a cooperating broker acting as a subagent, all licensees affiliated with that broker are that seller's subagent for the listed property. The only exception to this is in the case of the appointment of designated agents, as outlined in paragraph 10.

### **WORKING WITH BUYERS**

#### 4. The law allows licensees to work with a buyer as either a client or customer.

The law does not require that a licensee enter into an agency relationship with a buyer as a client, in order for the licensee to provide services to the buyer. A licensee can work with a buyer without representing the buyer in one of two ways. (A licensee can also provide some services to a buyer that the licensee intends to potentially represent before a buyer agency agreement is entered into, as outlined in paragraph 5).

First, the broker can be the buyer's agent as long as the buyer agrees with this. If a licensee represents a buyer, the law requires that a written buyer agency agreement be entered into before the licensee negotiates on behalf of the buyer (see paragraph 5 for further detail on what constitutes negotiating and the timing).

Second, a licensee can work with a buyer as a customer, meaning that the licensee does not represent the buyer. The licensee can show the buyer in-house listings, in which cases the licensee is the agent of the seller. The licensee can also show the buyer another firm's listing by being the subagent of the seller, after obtaining the seller's written consent to subagency. Note that a licensee is not legally entitled to enforce a compensation arrangement when working with a buyer on another firm's listings unless the licensee's firm enters into a buyer representation agreement with the buyer or obtains the seller's written permission to act as a subagent.

A licensee can also work with the buyer without being the buyer's agent for in-house sales and subsequently represent the buyer for another company's listings. Once the licensee becomes the buyer's agent, the licensee would then be either a dual agent or designated agent for any in-house sales with that buyer.

The steps involved in working with a buyer as a client and as a customer are outlined in more detail in Table 2.

Office policy may be more restrictive than what the law allows. Real estate firms that have chosen to work with buyers only as buyer agents must advise buyers that it is their *policy* (not the law) to only work with buyers as buyer agents.

#### 5. A licensee may conduct preliminary activities for a buyer before a written buyer representation agreement is entered into, given the following guidelines are met.

a. **Before** a licensee works with the buyer, the licensee should:

- (i) ask whether the buyer is currently being represented by another real estate firm.
- (ii) explain the real estate firm's office policy on the various agency, dual agency, designated agency, and customer relationships that the licensee could potentially have with the buyer; and
- (iii) specifically tell the buyer not to provide confidential information unless and until the buyer and licensee have entered into an agency relationship.

b. The licensee **can do** the following for a buyer, without entering into a written buyer agency agreement:

- (i) give the buyer property information;
- (ii) give the buyer information on the licensee's firm; or
- (iii) give the buyer information on mortgage rates and lending institutions.

c. The licensee **cannot do** the following for a buyer, **unless** either (1) a written buyer agency agreement is entered into, or (2) the licensee is going to represent the seller and has presented the buyer with the form Agency Disclosure Notice (given to Unrepresented Persons) stating that the licensee represents the seller (and for cooperating sales, obtains the seller's consent to subagency):

- (i) ask the buyer to disclose confidential information (including information about the buyer's financial status, reasons for purchasing, etc.);
- (ii) express an opinion on or give advice about particular real estate (note that a licensee representing the seller should be cautious expressing an opinion or giving advice);
- (iii) physically show the buyer in-house listings;
- (iv) physically show the buyer property listed with another firm; or
- (iv) discuss an offer with the buyer; or
- (v) engage in any verbal or written negotiations on the buyer's behalf concerning the price or any terms or conditions of the purchase.

**6. Buyer-brokers must accurately explain compensation arrangements with buyers.**

A broker entering into a buyer brokerage agreement with a buyer must explain the provisions of the agreement which detail the compensation arrangement. A broker cannot advertise or represent that buyers can be represented with no liability to pay a fee or commission (unless in fact the buyer has no obligation to pay compensation in any circumstances under the agreement).

**7. A licensee is not required to represent buyers that come into open houses.**

A licensee is not legally required to enter into an agency relationship with buyers who come to the licensee's open house. The licensee can work with the buyer as the seller's agent. (See Table 2, Brokerage Firm Represents Seller and Brokerage Firm Working with Buyer.) The form Agency Disclosure Notice (given to Unrepresented Persons) need not be given to prospective buyers, provided there is a sign or pamphlet disclosing the licensee's agency relationship and the specific real estate needs of the prospective buyer are not discussed. If the licensee and buyer both desire, a buyer agency agreement can be entered into. (See Table 2, Brokerage Firm Represents Buyer).

**REPRESENTING BOTH BUYERS AND SELLERS****8. The possibility of dual agency must be stated in agency agreements.**

If a brokerage firm represents both buyers and sellers, that firm's agency agreements must contain a statement, as set forth in the licensing regulations, that the potential exists for a broker to be a dual agent.

**9. Dual agency is allowed, if both parties give their informed consent.**

Dual agency is permitted if both the buyer and seller give their informed consent to it. One way that this consent can be obtained is by using the Dual Agency/Designated Agency Disclosure Notice and Consent Agreement. Buyer and Seller must sign the form, having checked that they "do" consent to dual agency. Another way to obtain this consent is to use the Dual Agency Consent Agreement. Both Buyer and Seller must sign the form. Details on the timing of the execution of these forms are set in paragraph 10.

**10. Notice of and informed consent to dual agency can be obtained by using EITHER the Dual Agency/Designated Agency Notice and Consent Form OR the Dual Agency Consent Agreement.**

Either the Dual Agency/Designated Agency Disclosure Notice and Consent Agreement *or* the Dual Agency Consent Agreement *may* be generically signed by the seller at the time a listing agreement is entered into, identifying the buyer as "all buyers that the licensee now represents or may represent in the future." Similarly, either form *may* be generically signed by the buyer at the time the buyer agency agreement is entered into, identifying the seller as "all sellers that the licensee now represents or may represent in the future" and the property as "all property currently listed with the licensee or listed with the licensee in the future." Before a specific buyer-client makes an offer on a specific seller-client's property, both the buyer and seller *must* execute a specific Dual Agency/Designated Agency Disclosure Notice and Consent Agreement *or* Dual Agency Consent Agreement listing the proper parties and property. *Practical Note: for a transaction where designated agents will be appointed, the Dual Agency/Designated Agency Notice and Consent Form should be used to obtain dual agency consent.*

**11. Designated agency is allowed, if both parties give their informed consent.**

In the case of dual agency, if all parties agree, the Brokerage Firm can appoint one or more licensees to solely represent the Buyer as a Designated Buyer's Agent and one or more licensees to solely represent the Seller as a Designated Seller's Agent in a specific transaction. These designated agents would not be deemed to be dual agents, although the brokerage firm and other licensees within the firm would still be considered dual agents.

**12. Designated agency is not an option for only one party/client in a transaction.**

The designated agency option is not available to only one party to a transaction. In other words, a brokerage firm can not designate a designated agent to solely represent the Buyer, and not use designated agency for the Seller in a specific transaction.

**13. Notice of and informed consent to Designated Agency can be obtained by using the Dual Agency/Designated Agency Notice and Consent Form.**

For designated agency to occur, the law requires that both the buyer and seller be given notice and give their informed consent. These two requirements can be met by using the Dual Agency/Designated Agency Disclosure Notice and Consent Agreement. The designated agents must be listed on the form, having been appointed by the Brokerage Firm. Additionally, Buyer and Seller must sign the form, having checked that they "have" agreed to the appointment of designated agents. This portion of the form would be filled out when the dual agency portion is, with the timing being the same.

**APPLICATION****14. Application to leasing transactions.**

All of the above applies to leasing transactions, except the limitation on subagency. In a lease transaction (but not a lease-purchase-option transaction), licensees working with a tenant may be a subagent of the landlord, without obtaining a written Subagency Consent document.

**15. Application to commercial property.**

All of the above applies to both residential and commercial property transactions.

***Adopted by the Connecticut Real Estate Commission this 6<sup>th</sup> day of January , 2000.***

**Connecticut Real Estate Commission Policy on Agency  
Adopted 1/6/00**

**TABLE 1  
CONNECTICUT AGENCY DOCUMENTS**

	Agency Representation Agreement	Agency Disclosure Notice	Dual Agency /Designated Agency Notice and Consent Documentation
<b>COOPERATING SALE</b>			
<b>Broker represents Seller</b>	Listing Agreement	give to unrepresented potential Buyer at time of first personal meeting concerning Buyer's need (not required if Buyer represented by another agent)	n/a
<b>Broker represents Buyer</b>	Buyer Agency Agreement	give to unrepresented potential Seller at time of first personal meeting with Seller (not required if Seller represented by another agent)	n/a
<b>Broker working with Buyer, subagent of Seller</b>	Seller Consent to Subagency	give to unrepresented potential Buyer at time of first personal meeting concerning Buyer's needs	n/a
<b>IN-HOUSE SALE</b>			
<b>Broker represents both Seller and Buyer, no Designated Agents</b>	Listing Agreement and Buyer Agency Agreement ( <i>must contain statement about possibility of dual agency</i> )	n/a	before Buyer makes a written offer: both Buyer and Seller must sign "Dual Agency Consent Agreement"
<b>Broker represents both Seller and Buyer, Designated Agents have been appointed</b>	Listing Agreement and Buyer Agency Agreement ( <i>must contain statement about possibility of dual agency</i> )	n/a	before Buyer makes a written offer: both Buyer, Seller, and broker must sign "Dual Agency/Designated Agency Disclosure Notice and Consent Agreement" with names of Designated Agents inserted
<b>Broker represents only Seller, working with Buyer</b>	Listing Agreement	give to unrepresented potential Buyer at time of first personal meeting concerning Buyer's needs (not required if Buyer represented by another agent)	n/a




**Connecticut Real Estate Commission Policy on Agency  
Adopted 1/6/00**

**TABLE 2  
CONNECTICUT REAL ESTATE AGENCY RELATIONSHIPS IN PRACTICE\***

Brokerage Firm Represents Seller	Brokerage Firm Represents Buyer	Brokerage Firm Working with Buyer as Customer
<p>STEP A1. Enter into written Listing Agreement. Go to STEP A2.</p> <p>STEP A2. Before Seller's property is shown to each potential Buyer, determine whether Buyer is represented by a brokerage firm.</p> <p>(i) If Buyer is not represented, but would like to be represented by your firm, go to STEP B1. (ii) If Buyer is not represented, and does not wish to be represented, go to STEP A3. (iii) If Buyer is represented by another firm, go to STEP A4. (iv) If Buyer is represented by your firm, go to STEP A5.</p> <p>STEP A3. Give Agency Disclosure Notice to unrepresented Buyer at time of first personal meeting concerning Buyer's needs. Go to STEP A4.</p> <p>STEP A4. Proceed as Seller's Agent.</p> <p>STEP A5. Have both Buyer and Seller given their informed consent to dual agency?</p> <p>(i) If yes, both Buyer and Seller must sign <i>either</i> ⇒Dual Agency Consent Agreement (if not designating agents) <i>or</i> ⇒Dual Agency/Designated Agency Disclosure Notice and Consent Agreement (if also designating agents) Go to STEP A6. (ii) If no, Stop. Cannot represent both parties in the same transaction without obtaining their informed consent.</p> <p>STEP A6. Have Brokerage Firm and both Buyer and Seller agreed to the appointment of Designated Agents?</p> <p>(i) If yes, both Buyer, Seller, and broker sign Dual Agency/ Designated Agency Disclosure Notice and Consent Agreement and broker must appoint designated agents in that Agreement. Designated agents proceed as such, rest of office proceeds as Dual Agent. (ii) If no, proceed as Dual Agent, with no designated agency.</p>	<p>STEP B1. Enter into written Buyer Agency Agreement. Go to STEP B2.</p> <p>STEP B2. Before Buyer is shown a property, determine whether the Seller of that property is represented by a brokerage firm.</p> <p>(i) If Seller is not represented, go to STEP B3. (ii) If Seller is represented by another firm, go to STEP B4. (iii) If Seller is represented by your firm, go to STEP A5.</p> <p>STEP B3. Give Agency Disclosure Notice to unrepresented Seller at time of first personal meeting with Seller. Go to STEP B4.</p> <p>STEP B4. Proceed as Buyer's Agent.</p>	<p>STEP C1. Determine whether Buyer seeks representation</p> <p>(i) If yes, go to STEP B1. (ii) If no, go to STEP C2.</p> <p>STEP C2. This is a difficult way to go, although it is allowed by the law. Procedure depends upon whether Buyer is going to be shown an in-house listing or another firm's listing.</p> <p>(i) For in-house listings, go to STEP C3. (ii) For another firm's listings, go to STEP C4.</p> <p>STEP C3. Broker may work with Buyer as the Seller's Agent. Go to STEP A3.</p> <p>STEP C4. Does Seller agree to Broker being Seller's subagent?</p> <p>(i) If yes, Broker must obtain Seller's written consent to subagency, containing subagent Broker's name and licensee number and containing a statement that the law imposes vicarious liability on the Seller for the acts of the sub-agent. Go to STEP A3. (ii) If no, Stop. Cannot proceed in this transaction and be legally entitled to compensation.</p>

\* These are the most common scenarios that a Broker may encounter, although this outline is not all encompassing. Refer to the Connecticut General Statutes for further detail and clarification on Connecticut agency relationships.

  
**CONNECTICUT REAL ESTATE COMMISSION**  
**POLICY**  
**ON**  
**(I) REFERRAL FEES**  
**AND**  
**(II) INTERFERING WITH AGENCY RELATIONSHIPS**

**History.** There has been real estate brokerage industry concern in Connecticut that real estate relocation companies (and affinity groups) are charging brokers referral fees for business that the broker already has (either because an agent generated it or another broker referred it). In this situation, there is no referral of business and no agreement between the broker and relocation company that the broker will pay a fee. Therefore, the broker is under no legal obligation to pay the relocation company a referral fee. However, brokers have stated that they feel pressured to pay the fee because otherwise (1) benefits will be withheld from the broker's client, and (2) a broker may not be sent future referrals.

In order to provide guidance to licensees on the issues of (I) referral fees and (II) interfering with agency relationships, the Connecticut Real Estate Commission establishes the following policy:

- I. Section 20-328-8a(e) of the Connecticut real estate regulations prohibits a broker from paying a referral fee to an unlicensed person engaging in the real estate business. In order to meet this license requirement, the person receiving the referral fee can be licensed in either Connecticut or another state.
- II. Section 20-328-8a(a) of the Connecticut real estate regulations prohibits a licensee from demanding a referral fee, unless a reasonable cause for payment of the referral fee exists. A reasonable cause for payment (which would allow a licensee to demand a referral fee, but not necessarily mean that the licensee has a legal right to a referral fee) means that (1) an actual introduction of business has been made, (2) a subagency relationship exists, (3) a contractual referral fee relationship exists, or (4) a contractual cooperative brokerage relationship exists.
- III. Section 20-328-9a(a) of the Connecticut real estate regulations prohibits a licensee from interfering with the agency relationship of another licensee (and further, section 20-328-9a(c) prohibits a licensee from attempting to induce a seller or landlord to break a listing contract with another licensee for the purpose of substituting it for a new listing contract). For purposes of this section, an agency relationship is not established until a written agency agreement (either a listing or buyer representation agreement) is entered into. Interfering with the agency relationship of another licensee includes (1) demanding a referral fee from another licensee without reasonable cause, (2) threatening to take harmful action against a client of another licensee because of the agency relationship, and (3) counseling a client of another licensee on how to terminate or amend an existing agency contract. Any activities that involve the communication of corporate relocation policies or benefits to a transferring employee, as long as that communication does not involve advice or encouragement on how to terminate or amend an existing agency contract, shall not be considered interference.

Concerns that a company or individual may not be complying with any regulations or statutes contained in this policy statement should be addressed to: Connecticut Real Estate Commission, 165 Capital Avenue, Hartford, Connecticut 06106.

*Adopted this 5<sup>th</sup> day of March, 1998*

  
**MEMORANDUM FOR ALL REAL ESTATE LICENSEES:**

I am writing on behalf of the Department of Consumer Protection and the Real Estate Commission to provide you with non-regulatory guidance concerning an emerging issue arising from the new agency law, the question of how brokers can work with buyers. We are providing this guidance to advise you of how you can avoid inadvertent misconduct in a new area.

A common misconception about the new law is that licensees can now only work with buyers as clients. This is not the case. As before, brokers and their salespeople can still work with a buyer in one of two ways:

- (1) **A broker can work with a buyer as a client.** In this case, the broker and all salespersons working for the broker represent the buyer. If this arrangement is pursued, the law requires the broker to enter into a written buyer agency agreement with the buyer before the broker is still permitted to represent the seller as a client as well as the buyer if both the buyer and seller give their informed consent to dual agency.

- (2) **A broker can work with the buyer as a customer.** In this case, the broker and all the salespersons working for the broker represent the seller. A broker represents a seller by either entering into a written listing agreement with the seller, or by cooperating with another broker who has entered into a listing agreement with the seller and obtaining the seller's written consent to subagency.

The Department and the Commission are concerned that brokerage firms that take listings may institute office policies that exclude working with a buyer as a customer. This is not permitted, because a broker representing a seller through an exclusive listing has a fiduciary legal duty to the seller to make a diligent effort to sell the listed property. Part of that duty involves introducing potential buyers to the listed property. It is the view of this Department that a broker cannot legally refuse to show an in-house listed property to a potential buyer because the buyer would not enter into an agency relationship with that broker.

In summary, the new agency law allows brokers to work with buyers on either a client or a customer basis. **A brokerage firm that lists properties cannot refuse to work with a buyer on a customer basis if that buyer does not seek representation and wishes to only be shown in-house listed properties.**

Mark A. Shiffrin  
Commissioner  
October 31, 1997

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### SUMMARY OF RECENT RELATED LEGAL OPINIONS / RULINGS

Reciprocity. Non-residents holders of license-by-reciprocity who become Connecticut residents have a valid Connecticut license and are not required to qualify with course, experience, and examination requirements in order to maintain the validity of their license. Legal Opinion, Connecticut Attorney General's Office, June 11, 1999.

Licensing of on-site employees. Section 20-329 of the Connecticut General Statutes provides "regular employees who are employed as on-site residential superintendents or custodians" are exempt from real estate licensing requirements. The Commission has interpreted this law as requiring all of the following conditions for the exemption to apply: The individual must (1) be a regular employee, (2) be employed as a superintendent or custodian, (3) work on a residential site where he engages in licensed activities, and (4) reside at the location where he works and engages in those licensed activities. Declaratory Ruling, Connecticut Real Estate Commission, April 1, 1999.

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### MEMORANDUM REGARDING CONTINUING EDUCATION FOR CYCLE ENDING IN 2004

Mandated Continuing Education Course for the Cycle Ending in 2004. *A memo from the desk of the Connecticut Real Estate Commission, July 25, 2002.* Pursuant to 20-319-3 of the Connecticut General Statutes, the Real Estate Commission has mandated that all real estate licensees in the State of Connecticut complete an Agency Disclosure Course as part of the their continuing education requirements for the cycle ending in 2004. Please call Laureen Rubino at the Department of Consumer Protection at (860) 713-6143 with any questions.