

§13273. Seller agent**1. Duty to seller.** A seller agent:

A. Shall perform the terms of the brokerage agreement made with the seller; [PL 1993, c. 679, §1 (NEW).]

B. Shall promote the interests of the seller by exercising agency duties as set forth in section 13272 including:

(1) Seeking a sale at the price and terms stated in the brokerage agreement or at a price and terms acceptable to the seller except that the seller agent is not obligated to seek additional offers to purchase the property while the property is subject to a contract of sale unless the brokerage agreement so provides;

(2) Presenting in a timely manner all offers to and from the seller, even when the property is subject to a contract of sale;

(3) Disclosing to the seller material facts of which the seller agent has actual knowledge or if acting in a reasonable manner should have known concerning the transaction, except as directed in section 13280;

(4) Advising the seller to obtain expert advice on material matters that are beyond the expertise of the seller agent; and

(5) Accounting in a timely manner for all money and property received in which the seller has or may have an interest; [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

C. Shall exercise reasonable skill and care; [PL 1993, c. 679, §1 (NEW).]

D. Shall comply with all requirements of the laws governing real estate commission brokerage licenses and any rules adopted by the commission; [PL 1993, c. 679, §1 (NEW).]

E. Shall comply with any applicable federal, state or local laws, rules, regulations or ordinances related to real estate brokerage including fair housing and civil rights laws or regulations; [PL 1993, c. 679, §1 (NEW).]

F. Has an obligation to preserve confidential information provided by the seller during the course of the relationship that might have a negative impact on the seller's real estate activity unless:

(1) The seller to whom the information pertains grants consent to disclose the information;

(2) Disclosure of the information is required by law;

(3) The information is made public or becomes public by the words or conduct of the seller to whom the information pertains or from a source other than the seller agent; or

(4) Disclosure is necessary to defend the seller agent against an accusation of wrongful conduct in a judicial proceeding before the commission or before a professional committee; and [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

G. Must be able to promote alternative properties not owned by the seller to prospective buyers as well as list competing properties for sale without breaching any duty to the client. [PL 1993, c. 679, §1 (NEW).]

[PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

2. Duty to buyer. The duty of a seller agent to a buyer is governed by the following.

A. A seller agent shall treat all prospective buyers honestly and may not knowingly give false information and shall disclose in a timely manner to a prospective buyer all material defects pertaining to the physical condition of the property of which the seller agent knew or, acting in a reasonable manner, should have known. A seller agent is not liable to a buyer for providing false

information to the buyer if the false information was provided to the seller agent by the seller agent's client and the seller agent did not know or, acting in a reasonable manner, should not have known that the information was false. A seller agent is not obligated to discover latent defects in the property. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

B. Nothing in this subchapter precludes the obligation of a buyer to inspect the physical condition of the property. A cause of action may not arise on behalf of any person against a seller agent for revealing information in compliance with this subchapter. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

C. A seller agent may provide assistance to the buyer by performing ministerial acts such as preparing offers and conveying those offers to the seller and providing information and assistance concerning professional services not related to real estate brokerage services. Performing ministerial acts for the buyer may not be construed as violating the seller agent's agreement with the seller or forming a brokerage agreement with the buyer. Performing ministerial acts for the buyer does not make the seller agent a transaction broker for the buyer. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

[PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

SECTION HISTORY

PL 1993, c. 679, §1 (NEW). PL 2005, c. 378, §14 (AMD). PL 2005, c. 378, §29 (AFF).

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