

Agency Relationships in South Carolina

The SC Real Estate License Law, in Section 40-57-139 (A) (1) and (2), requires a real estate licensee to give you this brochure and a meaningful explanation of agency relationships that are offered by the licensee's Company at the first practical opportunity at which you and the licensee have substantive contact.

Before you begin to work with a real estate licensee, it is important for you to know the difference between a broker-in-charge and their associated licensees. The broker-in-charge is the one in charge of everyone in the real estate Company. Their associated licensees may only work through that broker-in-charge. **In other words, when you choose to work with any real estate licensee, your business relationship is legally with the Company and not with the associated licensee.**

A real estate Company and its licensees can provide buyers and sellers valuable real estate services, whether in the form of basic **customer** services, or through **client**-level agency representation. The services you can expect will depend upon the legal relationship you establish with the Company. It is important for you to discuss the following information with the real estate licensee and agree on the type of business relationship you will have. Will you be a **customer** or a **client**?

Right Now You Are a Customer of the Company

South Carolina defines customers as buyers or sellers who choose NOT to establish an agency relationship. The law requires real estate licensees to perform certain **basic duties** when dealing with **any** real estate buyer or seller as customers to include:

- Present all offers in a timely manner
- Account for money or other property received on your behalf
- Provide an explanation of the scope of services to be provided
- Be fair and honest and provide accurate information
- Disclose "adverse material facts" about the property or the transaction which are within the licensee's knowledge

Unless or until you enter a written agreement with the Company for agency representation, you are considered a "Customer" of the Company, and the Company will not act as your agent. As a Customer, you should not expect the Company or its licensees to promote your best interest, or to keep your bargaining information confidential.

Customer service does not require an agreement on your part and you are not committed to the Company in any way.

You May Become a Client

Clients receive more services than customers. If client status is offered by the real estate Company, you may become a client by entering into a written agency agreement requiring the Company and its licensees to act as an agent on your behalf and promote your best interests. If you choose to become a client, you will be asked to confirm in your written representation agreement that you received this brochure in a timely manner.

A seller becomes a client of a real estate company by signing a formal listing agreement with the Company. For a seller to become a client, this agreement must be in writing and must clearly establish the terms of the agreement and the obligations of both the seller and the Company who becomes the agent for the seller.

A buyer becomes a client of a real estate Company by signing a formal buyer agency agreement with the Company. For a buyer to become a client, this agreement must be in writing and must clearly establish the terms of the agreement and the obligations of both the buyer and the Company who becomes the agent for the buyer.

If you enter into a written agency agreement, as a Client, you can expect the real estate Company to provide the following services:

- Obedience
- Loyalty
- Disclosure
- Confidentiality
- Accounting
- Reasonable care and skill

Client-level services also include advice, counsel and assistance in negotiations.

Single Agency

When the Company represents only one client in the same transaction (the seller or the buyer), it is called single agency.

Dual Agency

Dual Agency exists when the real estate Company has two clients in one transaction.

At the time you sign an agency agreement, you may be asked to acknowledge whether you would consider giving written consent allowing the Company to represent both you and the other client in a disclosed dual agency.

Disclosed Dual Agency

In a disclosed dual agency, the Company's representation duties are limited because a buyer and seller have built-in conflicts of interest. Both clients' interests are represented by the Company. *As a disclosed dual agent, the Company and its licensees cannot advocate on behalf of one client over the other, and cannot disclose confidential client information concerning the price negotiations, terms, or factors motivating the buyer/client to buy or the seller/client to sell.* Each Dual Agency Agreement contains the names of both the seller client(s) and the buyer client(s) and identifies the property.

Designated Agency

In designated agency, a broker-in-charge may designate individual associated licensees to act solely on behalf of each client. Designated agents are not limited by the Company's agency relationship with the other client, but instead have a duty to promote the best interest of their clients, including negotiating a price. The broker-in-charge remains a disclosed dual agent for both clients, and ensures the assigned agents fulfill their duties to their respective clients.

At the time you sign an agency agreement, you may be asked to acknowledge whether you would consider giving written consent allowing the Company to represent both you and the other client in a designated agency.

Each Designated Agency Agreement contains the names of both the seller client(s) and the buyer client(s) and identifies the property.

What to Look For in Any Agreement

When you choose client service, your written Agency Agreement or your agent should answer these questions:

- Can I work with other Companies during the time of the Agreement?
- What will happen if I buy or sell on my own without the agent?
- When will this agreement expire?
- How will the Company be paid for its services?
- Does this Company represent both buyers and sellers as clients?
- If so, what are the choices if two clients become involved in one transaction?
- What duties will the Company continue to provide me after the transaction is completed?

If you plan to become a client of the Company, the licensee will explain the agreement to you fully and will answer questions you may have about the agreement. **Remember, however, that until you enter into a representation agreement with the Company, you are considered a customer and the Company cannot be your advocate, cannot advise you on price or terms, and cannot keep your confidences.**

It's Your Choice

As a real estate consumer in South Carolina, it is your choice as to the type and nature of services you receive.

- You can choose to remain a customer and represent yourself while the Company represents the other party.
- You can choose to hire the Company for representation through a written agreement.
- If represented by the Company, you can decide whether to go forward under the shared services of dual agency or designated agency or to remain in single agency.

The choice of services belongs to you—the South Carolina real estate consumer.

This brochure has been approved by the S.C. Real Estate Commission for use in explaining representation issues in real estate transactions and consumers rights as a buyer or seller. Reprinting without permission is permitted provided no changes or modifications are made.

Consumer Information

When Buying or Selling Real Estate, Are You a Customer or Client?



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Labor, Licensing and
Regulation

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