

§13274. Buyer agent**1. Duty to buyer.** A buyer agent:

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

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

(1) Seeking a property at a price and terms specified by the buyer except that the buyer agent is not obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase that property unless it is provided by the brokerage agreement;

(2) Presenting in a timely manner all offers to and from the buyer;

(3) Disclosing to the buyer material facts of which the buyer agent has actual knowledge or, if acting in a reasonable manner, should have known concerning the transaction, except as directed in section 13280. Nothing in this subchapter limits any obligation of a buyer to inspect the physical condition of the property;

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

(5) Accounting in a timely manner for all money and property received in which the buyer 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, except that a buyer agent is not obligated to discover latent defects in the property; [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

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 buyer during the course of the relationship that might have a negative impact on the buyer's real estate activity unless:

(1) The buyer 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 buyer to whom the information pertains or from a source other than the buyer agent; or

(4) Disclosure is necessary to defend the buyer agent against an action 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 other properties in which the buyer is interested to other buyers who might also be clients of the buyer agent without breaching any duty or obligation. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

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

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

A. A buyer agent shall treat all prospective sellers honestly and may not knowingly give them false information including material facts about the buyer's financial ability to perform the terms of the transaction. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

B. A buyer agent is not liable to a seller for providing false information to the seller if the false information was provided to the buyer agent by the buyer agent's client and the buyer agent did not know or, acting in a reasonable manner, should not have known that the information was false. A cause of action may not arise on behalf of any person against a buyer agent for revealing information in compliance with this subchapter. [PL 2005, c. 378, §14 (AMD); PL 2005, c. 378, §29 (AFF).]

C. A buyer agent may provide assistance to the seller by performing ministerial acts such as preparing and conveying offers to the buyer and providing information and assistance concerning professional services not related to real estate brokerage services. Performing ministerial acts for the seller may not be construed as violating the buyer agent's agreement with the buyer or forming a brokerage agreement with the seller. Performing ministerial acts for the seller does not make the buyer agent a transaction broker for the seller. [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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