

1 AN ACT in relation to property.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the Real
5 Estate Zoning Disclosure Act.

6 Section 5. Property owner's duty to disclose. When an
7 owner of real property lists the property for sale with a
8 broker or salesperson licensed under the Real Estate License
9 Act of 2000, the owner must disclose to the broker or
10 salesperson all of the following:

11 (1) The zoning classification of the property
12 listed for sale.

13 (2) The zoning classification of each parcel of
14 property that adjoins the property listed for sale.

15 Section 10. Broker or salesperson's duty to disclose.

16 (a) A broker or salesperson licensed under the Real
17 Estate License Act of 2000 must timely disclose the following
18 to a customer who is a prospective buyer of real property
19 listed for sale with the broker or salesperson:

20 (1) The zoning classification of the property
21 listed for sale.

22 (2) The zoning classification of each parcel of
23 property that adjoins the property listed for sale.

24 (b) In making the disclosures required under subsection
25 (a), the broker or salesperson may rely on the information
26 disclosed to the broker or salesperson by the property owner
27 in accordance with Section 5 unless the broker or salesperson
28 knows the information to be false. A broker or salesperson
29 is not liable to a buyer or prospective buyer for providing
30 false information to the buyer or prospective buyer under

1 this Section if the false information was provided to the
2 broker or salesperson by the property owner and the broker or
3 salesperson did not have actual knowledge that the
4 information was false.

5 Section 15. Application of Act. This Act applies only to
6 real property listed for sale with a broker or salesperson on
7 or after the effective date of this Act.

8 Section 90. The Real Estate License Act of 2000 is
9 amended by changing Sections 15-15, 15-25, and 15-45 as
10 follows:

11 (225 ILCS 454/15-15)

12 Sec. 15-15. Duties of licensees representing clients.

13 (a) A licensee representing a client shall:

14 (1) Perform the terms of the brokerage agreement
15 between a broker and the client.

16 (2) Promote the best interest of the client by:

17 (A) Seeking a transaction at the price and
18 terms stated in the brokerage agreement or at a
19 price and terms otherwise acceptable to the client.

20 (B) Timely presenting all offers to and from
21 the client, unless the client has waived this duty.

22 (C) Disclosing to the client material facts
23 concerning the transaction of which the licensee has
24 actual knowledge, unless that information is
25 confidential information. Material facts do not
26 include the following when located on or related to
27 real estate that is not the subject of the
28 transaction: (i) physical conditions that do not
29 have a substantial adverse effect on the value of
30 the real estate, (ii) fact situations, or (iii)
31 occurrences. Notwithstanding any other provision of

1 this item (C), if the licensee is a broker or
2 salesperson and the client is a prospective buyer of
3 real estate listed for sale with the broker or
4 salesperson, the licensee must timely disclose to
5 the client the zoning classification of the real
6 estate that is the subject of the transaction as
7 well as the zoning classification of each parcel of
8 property that adjoins that real estate, as provided
9 in Section 10 of the Real Estate Zoning Disclosure
10 Act.

11 (D) Timely accounting for all money and
12 property received in which the client has, may have,
13 or should have had an interest.

14 (E) Obeying specific directions of the client
15 that are not otherwise contrary to applicable
16 statutes, ordinances, or rules.

17 (F) Acting in a manner consistent with
18 promoting the client's best interests as opposed to
19 a licensee's or any other person's self-interest.

20 (3) Exercise reasonable skill and care in the
21 performance of brokerage services.

22 (4) Keep confidential all confidential information
23 received from the client.

24 (5) Comply with all requirements of this Act and
25 all applicable statutes and regulations, including
26 without limitation fair housing and civil rights
27 statutes.

28 (b) A licensee representing a client does not breach a
29 duty or obligation to the client by showing alternative
30 properties to prospective buyers or tenants or by showing
31 properties in which the client is interested to other
32 prospective buyers or tenants.

33 (c) A licensee representing a buyer or tenant client
34 will not be presumed to have breached a duty or obligation to

1 that client by working on the basis that the licensee will
2 receive a higher fee or compensation based on higher selling
3 price or lease cost.

4 (d) A licensee shall not be liable to a client for
5 providing false information to the client if the false
6 information was provided to the licensee by a customer unless
7 the licensee knew or should have known the information was
8 false.

9 (e) Nothing in the Section shall be construed as
10 changing a licensee's duty under common law as to negligent
11 or fraudulent misrepresentation of material information.

12 (Source: P.A. 91-245, eff. 12-31-99.)

13 (225 ILCS 454/15-25)

14 Sec. 15-25. Licensee's relationship with customers.

15 (a) Licensees shall treat all customers honestly and
16 shall not negligently or knowingly give them false
17 information. A licensee engaged by a seller client shall
18 timely disclose to customers who are prospective buyers all
19 latent material adverse facts pertaining to the physical
20 condition of the property that are actually known by the
21 licensee and that could not be discovered by a reasonably
22 diligent inspection of the property by the customer. The
23 licensee must also timely disclose to such a customer the
24 zoning classification of real estate that is listed for sale
25 with the licensee and that is the subject of the transaction,
26 as well as the zoning classification of each parcel of
27 property that adjoins that real estate, as provided in
28 Section 10 of the Real Estate Zoning Disclosure Act. A
29 licensee shall not be liable to a customer for providing
30 false information to the customer if the false information
31 was provided to the licensee by the licensee's client and the
32 licensee did not have actual knowledge that the information
33 was false. No cause of action shall arise on behalf of any

1 person against a licensee for revealing information in
2 compliance with this Section.

3 (b) A licensee representing a client in a real estate
4 transaction may provide assistance to a customer by
5 performing ministerial acts. Performing those ministerial
6 acts shall not be construed in a manner that would violate
7 the brokerage agreement with the client, and performing those
8 ministerial acts for the customer shall not be construed in a
9 manner as to form a brokerage agreement with the customer.

10 (Source: P.A. 91-245, eff. 12-31-99.)

11 (225 ILCS 454/15-45)

12 Sec. 15-45. Dual agency.

13 (a) A licensee may act as a dual agent only with the
14 informed written consent of all clients. Informed written
15 consent shall be presumed to have been given by any client
16 who signs a document that includes the following:

17 "The undersigned (insert name(s)), ("Licensee"), may
18 undertake a dual representation (represent both the
19 seller or landlord and the buyer or tenant) for the sale
20 or lease of property. The undersigned acknowledge they
21 were informed of the possibility of this type of
22 representation. Before signing this document please read
23 the following: Representing more than one party to a
24 transaction presents a conflict of interest since both
25 clients may rely upon Licensee's advice and the client's
26 respective interests may be adverse to each other.
27 Licensee will undertake this representation only with the
28 written consent of ALL clients in the transaction. Any
29 agreement between the clients as to a final contract
30 price and other terms is a result of negotiations between
31 the clients acting in their own best interests and on
32 their own behalf. You acknowledge that Licensee has
33 explained the implications of dual representation,

1 including the risks involved, and understand that you
2 have been advised to seek independent advice from your
3 advisors or attorneys before signing any documents in
4 this transaction.

5 WHAT A LICENSEE CAN DO FOR CLIENTS

6 WHEN ACTING AS A DUAL AGENT

- 7 1. Treat all clients honestly.
- 8 2. Provide information about the property to the buyer
9 or tenant.
- 10 3. Disclose all latent material defects in the property
11 that are known to the Licensee.
- 12 3.5. With respect to property listed for sale with the
13 licensee, disclose the zoning classifications of the
14 property and the adjoining property as provided by the
15 property owner.
- 16 4. Disclose financial qualification of the buyer or
17 tenant to the seller or landlord.
- 18 5. Explain real estate terms.
- 19 6. Help the buyer or tenant to arrange for property
20 inspections.
- 21 7. Explain closing costs and procedures.
- 22 8. Help the buyer compare financing alternatives.
- 23 9. Provide information about comparable properties that
24 have sold so both clients may make educated decisions on
25 what price to accept or offer.

26 WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN

27 ACTING AS A DUAL AGENT

- 28 1. Confidential information that Licensee may know about
29 a client, without that client's permission.
- 30 2. The price the seller or landlord will take other than
31 the listing price without permission of the seller or
32 landlord.
- 33 3. The price the buyer or tenant is willing to pay
34 without permission of the buyer or tenant.

1 4. A recommended or suggested price the buyer or tenant
2 should offer.

3 5. A recommended or suggested price the seller or
4 landlord should counter with or accept.

5 If either client is uncomfortable with this
6 disclosure and dual representation, please let Licensee
7 know. You are not required to sign this document unless
8 you want to allow Licensee to proceed as a Dual Agent in
9 this transaction. By signing below, you acknowledge that
10 you have read and understand this form and voluntarily
11 consent to Licensee acting as a Dual Agent (that is, to
12 represent BOTH the seller or landlord and the buyer or
13 tenant) should that become necessary."

14 (b) The dual agency disclosure form provided for in
15 subsection (a) of this Section must be presented by a
16 licensee, who offers dual representation, to the client at
17 the time the brokerage agreement is entered into and may be
18 signed by the client at that time or at any time before the
19 licensee acts as a dual agent as to the client.

20 (c) A licensee acting in a dual agency capacity in a
21 transaction must obtain a written confirmation from the
22 licensee's clients of their prior consent for the licensee to
23 act as a dual agent in the transaction. This confirmation
24 should be obtained at the time the clients are executing any
25 offer or contract to purchase or lease in a transaction in
26 which the licensee is acting as a dual agent. This
27 confirmation may be included in another document, such as a
28 contract to purchase, in which case the client must not only
29 sign the document but also initial the confirmation of dual
30 agency provision. That confirmation must state, at a
31 minimum, the following:

32 "The undersigned confirm that they have previously
33 consented to (insert name(s)), ("Licensee"), acting as a
34 Dual Agent in providing brokerage services on their

1 behalf and specifically consent to Licensee acting as a
2 Dual Agent in regard to the transaction referred to in
3 this document."

4 (d) No cause of action shall arise on behalf of any
5 person against a dual agent for making disclosures allowed or
6 required by this Article, and the dual agent does not
7 terminate any agency relationship by making the allowed or
8 required disclosures.

9 (e) In the case of dual agency, each client and the
10 licensee possess only actual knowledge and information.
11 There shall be no imputation of knowledge or information
12 among or between clients, brokers, or their affiliated
13 licensees.

14 (f) In any transaction, a licensee may without liability
15 withdraw from representing a client who has not consented to
16 a disclosed dual agency. The withdrawal shall not prejudice
17 the ability of the licensee to continue to represent the
18 other client in the transaction or limit the licensee from
19 representing the client in other transactions. When a
20 withdrawal as contemplated in this subsection (f) occurs, the
21 licensee shall not receive a referral fee for referring a
22 client to another licensee unless written disclosure is made
23 to both the withdrawing client and the client that continues
24 to be represented by the licensee.

25 (Source: P.A. 91-245, eff. 12-31-99.)