



Consumer Rights

**The most common consumer rights
when selling or purchasing real estate**

by Natalie Danielson

This is a 5 clock hour course that looks at the laws that affect the rights of a consumer that is purchasing or selling a property in Washington State. The rights are a result of state and federal laws. The course looks at the laws from the rights of a consumer.

PROFESSIONAL *Direction* INC

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A Washington State Approved Real Estate School for Clock Hour Education under R.C.W. 18.85.



Please Read this First! Thanks!

PROFESSIONAL *Direction* INC

Clockhours by Mail

1. You will be provided with a booklet of with the class material. The tuition for the course, does NOT include the booklet. Do NOT make notes in the booklet. The booklets are recycled... so that they stay out of the landfills! And, you don't pay huge fees for "shipping and handling."
- 2.
3. The course has been divided up into one hour sessions. In Washington State a "clock hour" is 50 minutes. There are questions about each session. They can be answered while reading the material, at the end of the session, or at the end.
4. ***Answer*** the questions on the quiz answer sheet.
5. If you have any questions regarding the material or the questions, don't hesitate to call or email Natalie Danielson.
6. ***Mail*** Answer Sheet and Evaluation to Professional Direction.
7. ***Return*** Booklet to **the person that got it to you or mail it back to Natalie.... Then it gets recycled to another agent!**
8. The certificate will be mailed within 10 days of receipt of course materials and handout.

Disclaimer.. the course materials and questions are not to be used for legal advice. Information can change over time. Real estate transactions are handled different ways in different regions in the State of Washington. If you have any comments or concerns about the material contact Professional Direction.

Thanks!

Natalie Danielson

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Consumer Rights Curriculum

Session Hours	Major Topics	Method of Presentation	Equipment Materials	Assignment
1 3/4 hour	Law of Agency Identify duties of an agent to consumer	Lecture Discussion	Handout	Take Notes
2 1/4 hour	License Law Disclose licensed Brokers name	Lecture Discussion	Handout	Take Notes
3 3/4 hour	Disclosure Know property information disclosure law and disclosure requirements for lead paint and condominiums.	Lecture Discussion	Handout	Take Notes
4 3/4 hour	Fair housing List the protected classes and their rights with regards to real estate.	Lecture Discussion	Handout	Take Notes
5 1/2 hour	Commission Learn disclosure requirements and anti trust violations.	Lecture Discussion	Handout	Take Notes
6 1/2 hour	Confidentiality Know the confidentiality definition in the Law of Agency.	Lecture Discussion	Handout	Take Notes
7 1/2 hour	Contracts Identify consumer rights to copies of agreement and presentation of offers.	Lecture Discussion	Handout	Take Notes
8 1/4 hour	Escrow Learn the consumer rights when in escrow and the responsibilities of an LPO.	Lecture Discussion	Handout	Take Notes
9 1/4 hour	Financing Know the RESPA and TIL requirements and Fair Credit Reporting Act.	Lecture Discussion	Handout	Take Notes
10 1/2 hour	File Complaints Question/Review	Lecture Discussion	Handout	Take Notes

Consumer Rights

The most common consumer rights when selling or purchasing real estate

Introduction

When real estate agents work with the consumer to find, negotiate, purchase, sell, and lease real estate they need to understand the rights granted to the consumer by a variety of laws and rules. They include federal laws, Washington State statutes and administrative rules, local laws, common laws, and rules.

The consumer rights include, but certainly are not limited to the following:

- ✓ Law of Agency
- ✓ License Law
- ✓ Disclosure
- ✓ Fair Housing
- ✓ Commission
- ✓ Confidentiality
- ✓ Contracts
- ✓ Escrow
- ✓ Financing
- ✓ File Complaints

Course Objectives

As a result of taking this class the agent shall be able to:

1. List the major consumer rights and the agent responsibilities to the consumer.
2. Identify the legal source or many of the consumer rights.
3. Explain the rights to the consumer.

1. Law of Agency

Agency Representation

Agency is a conceptual relationship between two parties wherein one of them, the principal, employs or authorizes the other, the agent, to act for and on behalf of the principal. In most general terms, an agent is someone who represents the financial or property interests of another party. The agent may be empowered to do many of the things the principal could do or has chosen not to do personally.

There is no “single” common factor that creates an agency relationship. There is no one specific action, duty, or word that every real estate licensee would use that would undeniably create the relationship.

There is no federal law or statute that all real estate licensees in the country must follow. License laws originate in the individual states. Common laws based on lawsuits would direct the way agents practiced and the decisions the courts would make. Real estate agents had fiduciary duties to the principal.

The agency law and duties apply to ALL real estate agents that work in other areas of real estate besides residential such as commercial agents, those that sell investment properties, property managers, and agents that specialize in business opportunities.

Effective January 1, 1997, the Law of Real Estate Agency defined our role by statute in Washington State. The new legislation defines the law of agency for real estate licensees in our state for the first time.

The consumer has the right to be represented by a licensed real estate agent if they so choose.

The Washington State Law of Agency R.C.W. 18.86 specifies duties of an agent generally to all parties. The consumer has the right to expect from the agent these duties:

Duties of a Licensee Generally

There are 7 duties that a licensee owes to all parties to whom they provide real estate brokerage services. These 7 duties cannot be waived.

1. “The consumer has the right to expect a licensee to exercise reasonable care and skill
2. The consumer has the right to expect honesty and good faith.
3. The consumer has the right to have all written offers, written notices and other written communications to and from either party presented in a timely manner, regardless of whether the property is subject to an existing sale or the buyer is already a party to an existing contract.”

It is important to note that if you have a listing that is sold pending; you must still present other offers. The seller cannot sign two agreements, of course, unless one is a back up or subject to the failure of the first offer.
4. The consumer has the right to know all existing material facts known by the licensee and not apparent or readily ascertainable to a party; This shall not be construed to imply any duty to investigate matters the licensee has not agreed to investigate.
5. The consumer has the right to have all money accounted for by the real estate agent
6. The consumer has the right to receive a free pamphlet explaining Washington State’s agency laws before they:
 1. Sign an agency agreement with the licensee

2. Sign an offer handled by the licensee
3. Consent to dual agency
4. Waive any rights

The pamphlet must be in the form prescribed in the Law of Agency.

7. The consumer has the right to have agency disclosure.

“To disclose in writing to all parties to whom the licensee renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both or neither party. The disclosure shall be set forth in a separate paragraph entitled ‘Agency Disclosure’ in the agreement between the buyer and seller in a separate writing entitled ‘Agency Disclosure.’”

Duties of a Seller’s, Buyer’s, and dual Agent

Unless additional duties are agreed to in writing, the duties of an agent are limited to the following. They cannot be waived except in section (e).

- a. The consumer has the right to expect the agent representing them to be loyal and take no action that is adverse or detrimental to their interests in a transaction. A transaction is defined as when a party signs an agreement.
- b. The consumer has the right to expect that the agent will disclose any conflicts of interest.
- c. The consumer has the right to be advised to seek expert advice on matters beyond the agent’s expertise.
- d. The consumer has the right to expect the agent to keep certain information confidential.
- e. The consumer has the right to expect the agent to make a good faith effort to provide their services. A seller’s agent is not obligated to seek additional offers while the property is under contract. A buyer’s agent is not obligated to seek additional properties while the buyer is under contract to purchase or show buyer’s property where there is no written agreement to pay commissions.

Duties of a Dual Agent

The consumer has the right to be informed and agree in writing prior to a dual agency.

There are situations when an agent represents both parties at the same time. Usually the most difficult aspects of balancing the agent’s duties include keeping information confidential and dealing with the varying interests of each party.

“A licensee may act as a dual agent only with written consent of both parties to the transaction after the dual agent has complied with section 3(1)(f), which consent must include a statement of the terms of compensation.”

Dual agency occurs when an agent sells his or her own listing. In addition, when an agent sells an in-house listing, the broker becomes a dual agent. Undisclosed dual agency (often occurring when the agent has acted as an agent for both parties without disclosing) is where problems can happen.

2. License Law

Right to work with a licensed agent

The Law relating to the Licensing of Real Estate Brokers and Salespersons R.C.W. 18.85 requires that a person be a real estate broker or salesperson and therefore the consumer shall expect licensure if he or she:

Sells or offer for sale, lists or offer to list, buys or offers to buy real estate or business opportunities, or any interest therein, for others;

Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale exchange, lease or rental of real estate or business opportunities, or any interest therein;

Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, lease or exchange of a manufactured or mobile home in conjunction with the purchase, sale exchange, rental or lease of the land upon which the manufactured or mobile home is, or will be located;

Advertising or holds himself or herself out to the public by any oral or printed solicitation or representation that he or she is so engaged

Engages, directs or assists in procuring prospects or in negotiating or soliciting any transactions which results or is calculated to result in any of these acts.

RCW 18.85.230

Disciplinary action -- Grounds.

The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may impose any one or more of the following sanctions: Suspend or revoke, levy a fine not to exceed one thousand dollars for each offense, require the completion of a course in a selected area of real estate practice relevant to the section of this chapter or rule violated, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter RCW 64.36, 19.105, 58.19, or 18.86.030 or the rules adopted under those chapters or section;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the

exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter. However, RCW [9.96A.020](#) does not apply to a person who is required to register as a sex offender under RCW [9A.44.130](#);

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesperson or associate broker operates, to the advertisement; except, that a real estate broker, associate real estate broker, or real estate salesperson advertising their personally owned real property must only disclose that they hold a real estate license;

This includes your website, emails, and any flyers or postcards that advertises you as an agent, your company, or your listings.

If you have a rental, for example, that you own personally, you must say that you are a licensed agent on all advertising even if you are renting it on your own and not through your office.

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker, associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

Note that the law says “at the time of execution.” You must remember to bring copies of all contracts whenever you get a signature from a party in a transaction!

(22) Acceptance by a branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that he or she holds a real estate license;

If you are buying or selling or leasing or are in part ownership, you must disclose that fact to all parties to the transaction that you have a real estate license.

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a vehicle dealer, as defined in RCW 47.7.011, without having a license to do so;

(28) Failing to assure that the title is transferred under 46.12 RCW when engaging in a transaction involving a mobile home as a broker, associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

How your license works for you

You have a license to sell real estate. That law falls under the Consumer Protection Act. The reason you have to be licensed is to protect the consumer.

Preparing Agreements

You are licensed to prepare contracts and agreements. After the Heritage House case it was made clear that real estate licensees can prepare “preprinted forms prepared by an attorney.” That means that you need to be very careful whenever you prepare a blank addendum or create a transaction that is way beyond the normal business transaction.

You are not licensed to prepare agreements for a fee. If your neighbor sells her house to her friend, you are NOT licensed to prepare the documents unless you are part of the transaction and it is run through your office and broker. If you prepare the documents then it could be considered the “unauthorized practice of law” and could land you in court.

Attorneys have long since joked that the blank addendum to the purchase and sale agreement is a “paycheck” to them.

Who can sell for commission

Only licensed real estate agents can sell real estate for a fee. There are loan officers in the market today that are preparing purchase and sale agreements today for clients who will obtain financing from them. Then, they are also presenting the offers. This is against license law.

Licensed Assistants

If you have an assistant, his activities may require a license. Those activities can include telemarketing, negotiating an offer, or presenting an agreement. The activities that do not require a license can include answering the phone, creating flyers, and preparing mailings.

Fraudulent Documents

If a client or a lender asks the real estate agent to prepare a purchase and sale agreement with the intent to deceive a bank or a seller, this is fraudulent. Some agents have been known to say that the “lender said it was perfectly fine and legal.” It doesn’t matter what the lender says, if the intent is to deceive the end bank to let them believe, for example, that there is more equity in the house than there actually is, then the agent could be facing a court or hearing because it was the agent that prepared the purchase and sale agreement.

3. Disclosure

Property Information Disclosure Law

The Property Information Disclosure law R.C.W. 64.06 provides for a form for disclosure by the sellers whether they are listed with a real estate agent or selling “by owner.” It is to be used for all transfers of residential real property including multi family dwellings up to four units, new construction, condominiums not subject to a public offering statement and certain timeshares. It is not part of license law.

The potential purchaser must receive the form the seller within 5 business days of mutual acceptance of the purchase and sale agreement unless the buyer and seller mutually agree to a longer time period.

The potential purchaser has the right to rescind the agreement anytime until closing if the seller does not provide a disclosure statement.

The buyer has the right to rescind the purchase and sale agreement at any time within 3 business days from the seller’s delivery of the disclosure statement. The buyer’s decision to revoke or rescind may be made in the buyer’s sole discretion. The buyer does not have to identify any particular concerns about the statement.

If the seller becomes aware of additional information or inaccuracies, or a change in the property’s condition the buyer has the right to receive an amended disclosure statement.

The buyer will have the option of:

- (a) approving and accepting the amendment, or
- (b) rescinding the purchase and sale agreement within 3 business days after receiving the amended disclosure statement.

If the seller takes corrective action to restore the accuracy of the disclosures at least 3 business days before closing, then the buyer will NOT have a right to revoke.

The buyer should understand that the right to revoke the offer exists. The buyer can waive the right to revoke the offer. It is always risky to advise a buyer to waive any rights. Although that is a decision for the buyer to make the buyer’s agent should make sure the buyer understands the options.

In some circumstances, it may be in the buyer’s interest not to immediately waive the right to revoke the offer and instead to take advantage of the full three day period in which to decide whether or not to revoke.

In other circumstances, it may be in the buyer’s interest to waive the right to revoke the offer immediately upon receiving the disclosure form because it may make the buyer’s offer more attractive. But, if they do so they could give up some rights and time.

The buyer has the right to be told all material facts that may affect their decision to buy or what to pay for a property. The form does not change a seller’s obligation to disclose defects. If there is a material defect in the property that is not the subject of a specific question in the form, a seller must nevertheless disclose the defect to the buyer.

If the Agent is aware of the defect and fails to disclose it to a buyer is almost certainly liable to the buyer to the same extent as the seller.

Right to disclosure

The consumer has the right to have full disclosure. The real estate salesperson or broker cannot according to license law R.C.W. 18.85.230:

Make print publish, distribute or cause to be made any false statements, descriptions or promises of such character as to reasonable induce any person to act thereon, if the statements, descriptions or promises purport to be made or performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises.

Knowingly commit or be a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies up on the word, representation or conduct of the licensee.

If the information would AFFECT THE BUYERS DECISION TO BUY... OR HOW MUCH THE BUYER WOULD PAY then the information must be disclosed.

Lead Paint disclosure

In 1996 the Federal Government passed a law that requires that consumers receive certain information before renting, buying, or renovating pre-1978 housing because the paint in these properties prior to 1978 may contain lead. Lead from paint, chips, and dust can pose serious health hazards. Seller are to disclose know information on lead-based paint hazards before selling a home. There is a federal form that buyers will have up to 10 days, unless otherwise agreed, to check for lead hazards.

Condominium Disclosure

If a consumer is purchasing a condominium, there are specific disclosures that must be made. According to the Washington Condominium Act R.C.W. 64.34 certain information must be provided to the consumer prior to a purchase.

The Public Offering Statement

If the condominium is new construction, the developer must provide the purchaser with a Public Offering Statement which contains such information as;

- ✓ Declaration and amendments
- ✓ Survey map and plans
- ✓ Association articles of incorporation
- ✓ Association bylaws,
- ✓ Rules and regulations
- ✓ Balance sheet
- ✓ Budget

Resale Certificate

A resale certificate is to be provided to a purchaser or the sale could be voided. The seller and an agent of the association must sign the certificate. It includes:

- ✓ The declaration and bylaws
- ✓ Rules and regulations of the association
- ✓ Financial statements
- ✓ Budget
- ✓ Insurance statement
- ✓ Minutes of the annual board of directors

4. Fair housing

Right to see and purchase any dwelling regardless of protected class

According to the Federal Fair Housing act of 1968 and 1988 the consumer has the right to sell, rent, preview, or negotiate for a dwelling regardless of their protected class. The Federal Law provides for the following protected classes:

- ✓ Race
- ✓ Color
- ✓ Religion
- ✓ Sex
- ✓ National origin
- ✓ Familial status
- ✓ Handicap

Prohibited Acts under Federal Fair Housing Act

The following is a summary of the prohibited acts under the federal law.

1. Any refusal to sell or rent, or otherwise make unavailable, a dwelling after receiving a bona fide offer, or refuse to negotiate for the sale or rental of a dwelling, because of race, color, religion, sex, familial status, or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.
2. Discriminating in the “terms, conditions, privileges, or services of the sale or rental of a dwelling because of race, color, religion, sex, handicap, familial status, or national origin.
3. Engaging in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin.
4. Make, print, or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. This advertising prohibition applies to private owners who may otherwise be exempt from the Act.
5. Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that a dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
6. Engaging in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin.
7. Denying access to, or participation in a multiple listing service, brokers association or other organization to the business of selling or renting a dwelling because of race, color, religion, sex, handicap, familial status, or national origin. This also includes creating terms or conditions on membership based on a prohibited criteria.
8. For persons whose business includes engaging in the business of residential real estate related transaction, to discriminate in making available, or in the terms or conditions of, any residential real estate related transaction because of race, color, religion, sex, handicap, familial status or national origin
9. “Coerce, intimidate, threaten, or interfere with” any person exercising a fair housing right or on account of a person having assisted others in exercising such rights.

Availability of Dwellings

The consumer has the right to be provided accurate information about the availability of dwellings for sale or rental regardless of their race, color, religion, sex, handicap, familial status, or national origin.

HUD's regulations specifically list the five following prohibited actions, if such actions are done because of race, color, religion, sex, handicap, familial status, or national origin. These five items are only examples and the Act also prohibits other activities not necessarily listed below:

- (1) Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented.
- (2) Representing that instruments such as deeds, trusts, CC&R's, or leases, which purport to restrict the sale or rental of dwellings because of a protected class, preclude the sale or rental of a dwelling to any person of a protected class.
- (3) Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of a protected class.
- (4) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental.
- (5) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether they are actually seeking housing.

Washington State Law on Discrimination

Washington State Law in R.C.W 49.60 prohibits discrimination in employment, credit, and insurance transactions, in public resort accommodation or amusement and in real property transactions because of race, creed, color, national origin, sex, marital status, age, or the presence or any sensory, mental, or physical disability or the use of a trained guide dog or service dog by a disabled person. The law applies to ALL real property transactions including sale, appraisal, brokering, exchange, purchase, rental, or lease of real property or applying for a real estate loan. The word "handicap" was amended to read "disability." Individuals with HIV or perceived HIV infection shall be evaluated in the same manner as other claims of discrimination based on sensory, mental, or physical disability.

The consumer has the right for freedom from discrimination in Washington State includes, but is not limited to:

- The right to obtain employment.
- The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement.
- The right to engage in real estate transactions without discrimination, including discrimination against families with children. Families with children include a person who has a child (children) under 18 years old living with them. Parents, legal guardians, and those with written permission of parent or guardian are included. It also applies to any person who is pregnant or in the process of adoption or guardianship. Housing for seniors as in the Federal Fair Housing Act is exempt.
- The right to engage in credit transactions.
- The right to engage in insurance transactions with health maintenance organizations.
- The right to engage in commerce free from any discriminatory boycotts or blacklists.

Local Jurisdictions prohibit discrimination

Some local jurisdictions may have additional anti discrimination laws and other protected classes that can include sexual orientation, military discharge, matriculation, source of income and personal appearance.

Avoid Violating the Fair Housing and Anti Discrimination laws!

A Single Woman in Washington State in the Spring of 2004 made an offer on a property \$3000 over the asking price of \$196,000. The listing agent called the buyer directly and left a voice mail message saying that her offer was not accepted even though it was higher because they thought that the married couple would be more “stable” and that when it came down to financing that thought that “something could go wrong.” The listing agent, along with the sellers, chose another offer from a “married couple” over the higher offer of the “single woman” because they “thought” that it would be stronger simply because she was single and a woman instead of a married couple.

In our country we have federal laws for over 35 years that give every American the right to purchase property regardless of their race, color, religion, sex, national origin, familial status and handicap. You cannot make the assumption that one buyer is better than another because of what they look like or whether they are male or female or whether they are in a wheelchair. If the buyer is qualified they have just as much right to purchase the property! You and the seller do not have the right to “choose” a “better” buyer based on their background or their looks!

Which means that you should never “sell” the buyers based on who they are, how many kids, whether they go to the church or temple in the neighborhood, how old they are, if they are male or female. No letters from the buyers, no photos, and no resumes should accompany the offers.

Every American has the right to purchase property. If the buyer is qualified and the price is right then it doesn't matter who they are or what they look like!

If the seller asks about the buyers it is important to remind them that based on court cases... if you give them that information and they use it to base a decision to sell ... You could be fined and possibly lose your license... AND... they could end up in court with the Federal Government. They could lose more money than they could imagine!

If a person feels that there is a LIMITATION, PREFERENCE, DISCRIMINATION OR DISPARATE TREATMENT based on a protected class, then they could file a complaint with the Department of Housing and Urban Development or hire an attorney to sue.

5. Commission

Right to negotiate commission.

The consumer has the right to negotiate the commission. The primary anti-trust law that affects real estate brokers is Section 1 of the Sherman Anti Trust Act. It is to preserve free competition in the marketplace.

All that needs to be shown is that two separate business entities participate in a common plan or design. Words of conspiracy are not necessary. A broker announcing an intention to his competitors that he was raising his commission rate could be deemed to be a violation. No formal contract or conspiracy is necessary.

The real estate commission charged is not “set, determined, usual, typical, standard, etc” when discussed with the consumer. The Department of Licensing or the Association of REALTORS does not determine the commission rate. The anti-trust act is designed so that brokers can’t act in restraint of trade... to set a common commission. This protects the consumer from price fixing.

The real estate broker can establish a commission rate for their office or company.

Payment of Commission

The consumer is only required to pay commission if there is a written agreement for the payment of such. The law R.C.W. 19.36.010 says that any agreement, contract and promise shall be void, unless such agreement is in writing and signed by the party to be charged. This includes an agreement authorizing or employing an agent or broker to sell or purchase real estate for compensation or a commission.

All commissions in Washington State are made payable to the licensed broker. The commissions are never paid directly to the real estate licensee whether they are an associate or an associate broker. The licensed broker of the company is the only recipient of a commission check.

Sharing of Commissions

The real estate salesperson or broker is not to pay any part of his or her commission or other compensation to any person who is not licensed in the United States or Canada or any jurisdiction with a real estate regulatory program R.C.W. 18.85.330.

Disclosure of Commission

The real estate broker or salesperson cannot accept, take or charge any undisclosed commission rebate or direct profit on expenditures made for the principal R.C.W. 18.85.230(14).

YOU CANNOT BE PAID ANY KIND OF COMMISSION OR FEE OUTSIDE OF CLOSING AND THE HUD STATEMENT!

The consumer is to have full disclosure in writing of all facts if the real estate salesperson or broker charges or accepts compensation from more than one party in any one transaction R.C.W. 18.85.230 (13)

Earnest money

The real estate salesperson or broker cannot accept other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase and such fact is shown in the earnest money receipt according to R.C.W. 18.85.230(12).

6. Confidentiality

Right to confidentiality

The consumer has the right to have certain information remain confidential. The Law of Agency R.C.W. 18.86.010 (6) defines confidential information.

Confidential information means information from or concerning a principal of a licensee that:

1. Was acquired by the licensee during the course of an agency relationship with the principal;
2. The principal reasonably expects it to be kept confidential;
3. The principal has not disclosed or authorized to be disclosed to third parties;
4. Would, if disclosed, operate to the detriment of the principal; and
5. The principal personally would not be obligated to disclose to the other party.

The agent has the duty to not disclose any confidential information from or about the seller or buyer, except under subpoena or court order, even after termination of the agency relationship according to R.C.W. 18.86.040 (d), R.C.W. 18.86.050 (d), and R.C.W. 18.86.060 (d).

Fair Credit Reporting Act

According to the Federal Fair Credit Reporting Act lenders have a responsibility to keep certain information confidential including the credit report.

What this means is that the lender CANNOT release a copy of the credit report to the spouse OR the real estate agent even though the purchase and sale agreement may say otherwise. The lenders have agreements with credit reporting agencies. They have the Federal Fair Credit Reporting Act to follow and violating it could cost them their job.

The buyer has the right to keep confidential information about their credit from anyone other than the lender.

7. Contracts

Right to have real estate contracts in Writing

The consumer has the right to have all contracts in writing that authorize or employ an agent or broker to sell or purchase real estate for compensation or commissions R.C.W. 19.36.010.

If the consumer is signing an agreement that is not to be performed in one year from the making including leases it must be in writing R.C.W. 19.36.010, 59.04.020

Right to Copy of Agreements

The License Law W.A.C.308-124D-020 regarding negotiating agreements states that the real estate licensee shall be responsible for negotiating the agreement between the seller and the purchaser.

The consumer as a purchaser shall have all written offers presented for acceptance or refusal and a copy of the agreement shall be delivered to the purchaser immediately following the purchaser's signing.

The seller shall have a copy of the offer to purchase shall be delivered immediately following seller's signing and acceptance of purchaser's offer.

The purchaser is to receive a copy of the agreement to purchase bearing the signature of the seller as proof that the purchaser's offer was accepted.

Right to have purchase and sale agreement presented

The consumer has the right to expect that the purchase and sale agreement shall be presented to the seller for acceptance or refusal according to W.A.C. 308-124D-020 (1).

The consumer has the right to have all written offers, written notices and other written communications to and from either party in a timely manner regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase according to the Law of Agency R.C.W. 18.86.030 (c).

Right to review the resale certificate/ public offering statement

Right to have documents reviewed by an attorney

The consumer has the right to hire an attorney at their expense to review the documents.

The consumer shall be advised to seek expert advice in matters beyond the expertise of the real estate agent according to the Law of Agency R.C.W. 118.86.040, R.C.W. 118.86.050, R.C.W. 118.86.060.

Right to Sign

The consumer has the right to sign his or her own name to any document or contract. If the agent signs the name of the consumer it may be considered fraudulent and that is a violation of R.C.W. 18.85.230. (5). In other words, YOU are NEVER to sign even initials for a buyer or seller at any time!

8. Escrow

Right to review HUD before signing

The Consumer has the right to review the closing statement prior to signing the closing documents.

The real estate broker shall furnish or cause to be furnished to each buyer and to each seller in every real estate or business opportunity transaction wherein the licensee acts as a broker, at the time the transaction is closed, a complete detailed closing statement as it applies to the buyer and a complete detailed closing statement as it applies to the seller according to W.A.C. 308-124D-020 (6).

Right to neutral third party

The party to the transaction has the right to a neutral third party when using the services of an escrow agent or L.P.O. when signing and closing a transaction.

Right to have title report reviewed

The parties have the right to review the title report prior to closing. They have the right to challenge any incorrect information on the title.

9. Financing

Right to choose lender

The consumer has a right to choose a lender to finance a purchase of a property.

Right to have APR disclosure

The Federal Government passed the Truth in Lending Act in 1969.

The consumer has the right to review a Truth in Lending Statement which details the finance charge, Costs and Annual Percentage Rate along with the payment schedule within 3 business days of application for a mortgage loan.

Disclosure of Business arrangements

The Real Estate Settlement and Procedures Act (RESPA) was modified in 1992 to detail controlled business arrangements and Computerized Loan Origination.

The consumer has the right to have full disclosure of any controlled business arrangements including referrals. Any financial interest between the provider of settlement services and the person making a referral must be disclosed as well as the estimated charges.

The RESPA provisions also forbid kickbacks, referral fees or things of value be exchanged between mortgage brokers and real estate brokers with several exceptions.

A referral fee is allowed for computerized loan origination that occurs if a real estate agent or broker compiles information on a computer they can receive a fee.

Right to confidentiality of credit report

The Federal Fair Credit Reporting Act provides for the confidentiality of a consumers credit report. The lender that has a signature and orders a credit report for a borrower cannot provide that information to any other party. The borrower can request a free copy of their own personal credit report.

10. File Complaints

Report violations to dept of licensing

The consumer has the right to report violations in writing to the License Law or Law of Agency to the Washington State Department of Licensing.

Report violations of Discrimination

If a consumer has felt that they have experienced discrimination they can file a complaint with the state or local H.U.D. office.

Report violations to Broker

The licensed broker of a real estate office has the responsibility to have adequate supervision of the affiliated licensees according to W.A.C. 308-124D-061.

Hire an Attorney

The consumer has the right to consult and hire an attorney if they feel that their rights have been violated.

Consumer Rights

**The most common consumer rights
when selling or purchasing real estate**

True / False Quiz

Law of Agency

1. The consumer has the right to be represented by a licensed real estate agent.
2. If you have a listing that is sold but not closed; you must still present other offers.
3. The consumer has the right to have all money accounted in a transaction for by the real estate agent
4. The real estate agent must provide a pamphlet explaining Washington State Law of Agency before the sellers sign a listing agreement.
5. The real estate agent can CHARGE for the Law of Agency pamphlet.
6. The consumer must know who the agent represents before they SIGN an offer.
7. The agent must be loyal to the client and take no action that is adverse in a transaction.
8. A transaction commences at the time a party signs an agreement.
9. The agent can draft a document that says that the buyers agent waives the duty of loyalty and let the agent write up a second offer on the house the first buyer is trying to buy.
10. An agent can act as a dual agent without a signed agreement from both parties.
11. An agent can be a dual agent if the buyer only signs an agreement.
12. An agent acting as a dual agent does not have to disclose compensation prior to being a dual agent.

License Law

13. A person must be licensed to negotiate the sale of real estate in expectation of receiving commission.
14. The consumer has the right to have a copy of the contracts at the time they sign.
15. The real estate agent must disclose the brokers name as licensed on newspaper advertising but not on internet web sites.
16. The real estate agent must disclose when purchasing or selling property in which they have an ownership interest, that they have a real estate license.

Disclosure

17. The seller must fill out a property information disclosure before they can sell their property or the buyer can walk away before closing.
18. The property information disclosure law only applies to seller's who list with a real estate agent.
19. The potential purchaser must receive the form from the seller within 5 business days of mutual acceptance of the purchase and sale agreement unless the buyer and seller mutually agree to a longer time period.
20. The potential purchaser has the right to rescind the agreement anytime until closing if the seller does not provide a disclosure statement.
21. The buyer has the right to rescind the purchase and sale agreement at any time within 3 business days from the seller's delivery of the disclosure statement.
22. In order to revoke the agreement the buyer must identify any particular concerns about the statement.
23. If the seller becomes aware of additional information or inaccuracies, or a change in the property's condition the buyer has the right to receive an amended disclosure statement.
24. The buyer will have the option of:
 - a. approving and accepting the amendment, or
 - b. rescinding the purchase and sale agreement within 3 business days after receiving the amended disclosure statement.
 - c. Requiring the seller to fix the problems.
25. The buyer can waive the right to revoke the offer.
26. If there is a material defect in the property that is not the subject of a specific question in the form, a seller must nevertheless disclose the defect to the buyer.
27. If the Agent is aware of the defect and fails to disclose it to a buyer, the agent is almost certainly liable to the buyer to the same extent as the seller.
28. The buyer must receive a lead paint disclosure if the property was built before _____.
29. The purchaser of a condominium has the right to receive a resale certificate which includes, but is not limited to, the financial statement of the homeowners association and a copy of the minutes of the last meeting.
30. The purchaser of a new construction condominium has the right to receive a Public Offering Statement.
31. If a defect has been corrected it still should be disclosed on the disclosure form.
32. The seller must disclose material facts that affect the buyers decision to buy or how much they would pay.

Fair Housing

- 33. A disabled person shall be able to construct a wheelchair ramp on a rental at his or her own expense.
- 34. The buyer has the right to see and purchase any property regardless of protected class.

Federal protected classes

- 35. _____
- 36. _____
- 37. _____
- 38. _____
- 39. _____
- 40. _____
- 41. _____

Examples of other protected classes in other states and counties.

- 42. _____
- 43. _____
- 44. _____
- 45. _____

- 46. The seller does not have the right to choose one purchaser over another based on race.
- 47. It is appropriate for a real estate agent to show a Jewish woman properties only in neighborhoods with a high percentage of Jewish residents.
- 48. The buyer shall have the right to have their offer presented without disclosing to the seller their race and disability or whether they are a woman or man.

Commission

- 49. The real estate commission charged is determined by a vote of the local real estate agents.
- 50. The REALTOR association sets the commission schedules.
- 51. The seller has the right to negotiate commission.
- 52. The Real Estate agent has the right to be paid commission directly from the seller.
- 53. The buyer can pay the real estate agent commission instead of the broker.

Confidentiality

- 54. According to the Fair Credit Reporting Act the buyers credit report is confidential.
- 55. The seller has the right to keep confidential their motivation for selling or moving.
- 56. If an agent lists a seller's property but the listing expires and the seller relists with another agent, the information about the seller's bottom price and motivation still remain confidential.
- 57. The buyer has the right to keep confidential their place of business or source of income/assets if it doesn't affect the sale and they are qualified by a lender.

Contracts

58. All parties have the right to have a copy of contracts immediately when signing.
59. If only the husband signs a purchase and sale agreement, the contract may be voidable by the wife and only the wife.
60. The real estate agent can sign the initials of the clients they represent
61. The buyer has the right to have purchase and sale agreement presented whether or not property under another agreement.
62. All parties have the right to have documents reviewed by an attorney

Escrow

63. Only the seller has the right to review HUD statement before signing.
64. The buyer has the right to have title report reviewed prior to closing.
65. The seller has the right to challenge anything incorrect on the title.

Financing

66. The buyer has the right to choose lender.
67. The buyer's credit report must be released by the lender upon demand to the real estate agents.
68. An Ad that says "nothing down" or "as low as 6% interest rate" is legal under RESPA..
69. The borrower has the right to have a good faith estimate.
70. The Good Faith Estimate must be given to a buyer within 3 days after making loan application.
71. The good faith estimate must have the APR disclosure.
72. The Good Faith Estimate must accurately the final terms of the loan at closing.

File Complaints

73. Only the seller can report violations to Dept of Licensing.
74. Complaints made to the Department of Licensing must be in writing.
75. If a legitimate complaint is filed, the real estate licensee can be arrested and hauled off to jail.
76. If a licensee does not receive commission from the broker, the complaint can be filed online.
77. If a party feels that they have been discriminated against, they can report violations to HUD.
78. Only the Duties of a Licensee Generally in the Law of Agency are under the jurisdiction of the Department of Licensing.
79. In many situations the only place to resolve complaints is in the courts.

Answer Sheet... Name of class

1		41	
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I attest that I have read the materials and have answered the questions.

Date Course Started _____ **Date Course Completed** _____

Print Name _____ **Company** _____ **Signature** _____

PROFESSIONAL Direction, 13148 Holmes Pt Dr NE, Kirkland WA 98034 (425) 821-8585



Mandatory Evaluation

Did you read the material in the booklet on this date? YES / NO
 Did you complete the quiz for the course and use answer sheet? YES / NO
 Did you make arrangements to return the class book ? YES / NO
 Did you fill out and sign this form? YES / NO

Why did you choose to take this course? Topic? Time? Cost? Ease? Other?

A "clock hour" according to the state is 50 minutes.. So this 5 hour class should take in the area of 4 hours give or take about 10-20 minutes. How long did it take you to complete the course?
 _____ Comments?

	No			Yes	
Will the material you learned improve your performance?	1	2	3	4	5
Were the course materials easy to follow?	1	2	3	4	5
Were the course materials relevant to your profession?	1	2	3	4	5
Were your objectives met by attending the class?	1	2	3	4	5

Was the course material interesting?

What are 3 things that you learned from the course?

- 1.
- 2.
- 3.

Would you take another correspondence course from Professional Direction? Yes/ No Why?

Thank you very much for taking this course!

Print Name _____ Signature _____

Company _____ Address _____

City _____ WA Zip _____ phone _____

Name of Class _____ Date Completed _____

License Renewal Date _____

Thanks,
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