



Red Hot Issues in Real Estate

Natalie Danielson



Professional Direction

email: clockhours@gmail.com

www.clockhours.com

The Best Real Estate School on the Planet!

Introduction

The real estate industry is constantly changing. Laws, litigation, technology, communication all affect the way a transaction happens from the initial contact with an agent or a property all the way to closing. From contracts to money real estate agents have to be on top of the current issues. This class covers some of the major topics that are affecting our business here in Washington State.

If you have legal questions, direct them to the corporate attorney, the NWMLS or the REALTORS.

Course Objectives

As a result of taking this class the agent shall be aware of some of the most recent issues in our industry

1. Read and know the Consumer Agency Law Pamphlet
2. Be aware of legislative issues
3. Know the rules for education and renewals
4. Understand that the buyer must beware of problems
5. Know how to work within the inspection forms.
6. Know the latest fraud issues
7. Know disclosure issues for marketing

Red Hot Issues in Real Estate

Curriculum Outline

Session Hours	Topic	Learning objective As a result of taking this class the agent shall learn:
1 30 minutes	Agency Law	Do you know what the Consumer Pamphlet says? When is a brokerage agreement to be signed?
2 30 minutes	Education	Know educational requirements. How to get a MB license
3 30 minutes	Disclosure	Buyer Beware
4 30 minutes	Evidence of Funds Inspection	Know the Evidence of funds and inspection forms
5 30 min	Legislative	Know the latest issues
6 30 minutes	Marketing	Disclosure of firm and name as licensed Photos.. who owns them Video and audio recording Zillow is an advertising company Off market listings



WA State Agency Law

Why have a written Brokerage Agreement with a Client?

A written Brokerage Services agreement with a client is a requirement for all brokers!

- Discloses the agency relationship and the term with the client in writing.
It is important that the clients clearly understand the agency relationship. The default term is 60 days, but a different term, shorter or longer, can be agreed to in writing. (Watch for scammers that may put very long terms.)
- Affirms that the agent has given the clients a copy of the Consumer Pamphlet on the Law of Agency. The way to document that the buyer has received the pamphlet is for the client to sign the Buyer Brokerage Agreement.
- Gives the buyer and the seller written consent for *limited* dual agency.
If a broker could possibly show an inhouse listing, for example, the broker must have the buyer understand dual agency and get a copy of the pamphlet. This is documented on a Buyer Brokerage Agreement and a listing agreement. Limited dual agency must be agreed to in writing.
- Details terms of compensation.
How are the brokers to be paid? How much does the buyer's agent get paid? The NWMLS discloses the commission paid by the seller for the buyer's agent. If that commission is less than what the buyer's agent requires by contract with their firm, less than what will cover their time and expenses, or is nothing, then the buyer can negotiate the payment only with a Buyer Brokerage Agreement.
- Puts commission in writing if there is no listing agreement.
If a buyer elects to purchase a house that is not listed in the NWMLS, this commission section details the amount of commission that the buyer agrees to pay to compensate their agent. If a property seller refuses to agree on paper in a listing or as a for sale by owner, to pay a commission, the buyer's agent is not required to show that property. If a broker wants to show a house that is for sale by owner, the broker must explain the agency law and brokers services contract.
- There is an attorney's fees provision so that if the broker is sued and wins, the other party is responsible for attorney fees.

Buyer Brokerage Agreements

For years, real estate brokerage firms were only required to enter into written agreements with sellers, not buyers. Beginning on January 1, 2024, the Agency Law will require firms to enter into a written “brokerage services agreement” with any party the firm represents, both sellers and buyers. This change is to ensure that buyers (in addition to sellers) clearly understand the terms of the firm’s representation and compensation.

The services agreement with buyers must include:

- The term of the agreement (with a default term of 60 days and an option for a longer term); BE AWARE Scammers might try for very long terms!!!
- The name of the broker appointed to be the buyer’s agent.
- Whether the agency relationship is exclusive or non-exclusive.
- Whether the buyer consents to the individual broker representing both the buyer and the seller in the same transaction (referred to as “limited dual agency”);
- Whether the buyer consents to the broker’s designated broker/ managing broker’s limited dual agency.
- The amount the firm will be compensated and who will pay the compensation; and
- Any other agreements between the parties.

Must be signed “as soon as “reasonably practicable.”

A Buyer Agency Agreement has been available in Washington State for decades. It is not a new form, though it has recently been changed.

The agreement must be presented and signed “AS SOON AS REASONABLY PRACTICABLE.” This means it has a sense of urgency or immediacy. It needs to establish the relationship before or immediately after providing real estate brokerage services.

Examples of when you would present the buyer brokerage services.

- If you are qualifying a buyer and discussing properties that might be suitable or available.
- When you are meeting a buyer for the first time to determine if you can help them.
- When you meet a buyer at an open house and they want to write up an offer.
- When a buyer calls you and wants to meet at a house for sale. As soon as you have shown the home the discussion goes forward.

The Buyer Brokerage services agreement affirms that you have presented a copy of the law to the consumers.

Seller Brokerage Agreements

The Listing Agreement

A listing agreement is a Seller Brokerage Agreement. It details the requirements of the Brokerage agreements.

1. The term (duration) of the agreement; WA law restricts listings to be 5 years or less.
2. Name of the broker(s) appointed to act as an agent for the principal, Disclosing the agency relationship.
3. Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time); Listings in the MLS are exclusive right to sell listings.
4. Confirms that the seller understands and consents to limited dual agency. If a broker could show an inhouse listing, for example, the broker must have the buyer understand dual agency and get a copy of the pamphlet. This is documented on a Buyer Brokerage Agreement. Dual agency must be agreed to in writing.
5. The terms of compensation are documented.

A real estate firm and broker must enter into a written brokerage services agreement with a seller to establish an agency relationship. This is the listing agreement. The firm will then appoint one or more brokers to be agents of the seller. The firm's designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.

Landlords/ Tenants Brokerage Agreements

The Brokerage agreement is also required to be signed by consumers looking for properties to rent. When a broker is showing property or having a client sign a rental agreement to market the property, it falls under the Brokerage agreements.

The Required Agency Law Pamphlet

When a consumer is presented with the Brokerage Agreement, they must also receive a Consumer Pamphlet on the Law of Agency. This pamphlet has been rewritten from the past to be more consumer friendly. It is in a narrative that is easy to read.

The format of the new pamphlet is not dictated by law. You must provide the information to the consumer, but it can be in any reasonable size or design. You are not required to have a pamphlet created by the MLS or the Realtors.

READ this pamphlet....

It is a summary of the Law of Agency as told to all consumers. You should know it!

Real Estate Brokerage in Washington

Consumer Pamphlet

RCW 18.86 section 13 Effective January 2024

Introduction

This pamphlet provides general information about real estate brokerage and summarizes the laws related to real estate brokerage relationships. It describes a real estate broker's duty to the seller/landlord and buyer/tenant. Detailed and complete information about real estate brokerage relationships is available in chapter 18.86 RCW. If you have any questions about the information in this pamphlet, contact your broker or the designated broker of your broker's firm.

Licensing and Supervision of Brokers

To provide real estate brokerage services in Washington, a broker must be licensed under chapter 18.85 RCW and licensed with a real estate firm, which also must be licensed. Each real estate firm has a designated broker who is responsible for supervising the brokers licensed with the firm. Some firms may have branch offices that are supervised by a branch manager and some firms may delegate certain supervisory duties to one or more managing brokers.

The Washington State Department of Licensing is responsible for enforcing all laws and rules relating to the conduct of real estate firms and brokers.

Agency Relationship

In an agency relationship, a broker is referred to as an "agent" and the seller/landlord and buyer/tenant is referred to as the "principal." For simplicity, in this pamphlet, seller includes landlord, and buyer includes tenant.

For Sellers

A real estate firm and broker must enter into a written services agreement with a seller to establish an agency relationship. The firm will then appoint one or more brokers to be agents of the seller. The firm's designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.

For Buyers

A real estate firm and broker(s) who perform real estate brokerage services for a buyer establish an agency relationship by performing those services. The firm's designated broker and any managing broker responsible for the supervision of that broker are also agents of the buyer. A written services agreement between the buyer and the firm must be entered into before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.

For both Buyer and Seller - as a Limited Dual Agent

A limited dual agent provides limited representation to both the buyer and the seller in a transaction. Limited dual agency requires the consent of each principal in a written services agreement and may occur in two situations:

- (1) When the buyer and the seller are represented by the same broker, in which case the broker's designated broker and any managing broker responsible for the supervision of that broker are also limited dual agents; and

(2) when the buyer and the seller are represented by different brokers in the same firm, in which case each broker solely represents the principal the broker was appointed to represent, but the broker's designated broker and any managing broker responsible for the supervision of those brokers are limited dual agents.

Duration of Agency Relationship

Once established, an agency relationship continues until the earliest of the following:

- (1) Completion of performance by the broker.
 - (2) Expiration of the term agreed upon by the parties.
 - (3) Termination of the relationship by mutual agreement of the parties; or
 - (4) Termination of the relationship by notice from either party to the other.
- However, such a termination does not affect the contractual rights of either party.

Written Services Agreement

A written services agreement between the firm and principal must contain the following:

- (1) The term (duration) of the agreement.
- (2) Name of the broker(s) appointed to act as an agent for the principal.
- (3) Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time);
- (4) Whether the principal consents to limited dual agency.
- (5) The terms of compensation.
- (6) In an agreement with a buyer, whether the broker agrees to show a property when there is no agreement or offer by any party or firm to pay compensation to the broker's firm; and
- (7) Any other agreements between the parties.

A Broker's Duties to All Parties

A broker owes the following duties to all parties in a transaction:

- (1) To exercise reasonable skill and care.
- (2) To deal honestly and in good faith.
- (3) To timely present all written offers, written notices, and other written communications to and from either party.
- (4) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party. A material fact includes information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a transaction or operates to materially impair or defeat the purpose of the transaction. However, a broker does not have any duty to investigate matters that the broker has not agreed to investigate.
- (5) To account in a timely manner for all money and property received from or on behalf of either party;
- (6) To provide this pamphlet to all parties to whom the broker renders real estate brokerage services and to any unrepresented party.
- (7) To disclose in writing who the broker represents; and
- (8) To disclose in writing any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

A Broker's Duties to the Buyer or Seller

A broker owes the following duties to their principal (either the buyer or seller):

- (1) To be loyal to their principal by taking no action that is adverse or detrimental to their principal's interest in a transaction.
- (2) To timely disclose to their principal any conflicts of interest.
- (3) To advise their principal to seek expert advice on matters relating to the transaction that are beyond the broker's expertise.
- (4) To not disclose any confidential information from or about their principal; and
- (5) To make a good faith and continuous effort to find a property for the buyer or to find a buyer for the seller's property, until the principal has entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Limited Dual Agent Duties

A limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal. A broker, acting as a limited dual agent, owes the following duties to both the buyer and seller:

- (1) To take no action that is adverse or detrimental to either principal's interest in transaction.
- (2) To timely disclose to both principals any conflicts of interest.
- (3) To advise both principals to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise.
- (4) To not disclose any confidential information from or about either principal; or
- (5) To make a good faith and continuous effort to find a property for the buyer and to find a buyer for the seller's property, until the principals have entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Compensation

In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms. To receive compensation from any party, a firm must have a written services agreement with the party the firm represents (or provide a "Compensation Disclosure" to the buyer in a transaction for commercial real estate).

A services agreement must contain the following regarding compensation:

- (1) The amount the principal agrees to compensate the firm for broker's services as an agent or limited dual agent.
- (2) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and
- (3) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party.

Short Sales

A "short sale" is a transaction where the seller's proceeds from the sale are insufficient to cover seller's obligations at closing (e.g., the seller's outstanding mortgage is greater than the sale price). If a sale is a short sale, the seller's real estate firm must disclose to the seller that the decision by any beneficiary or mortgagee, to release its interest in the property for less than the amount the seller owes to allow the sale to proceed, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including real estate firms' compensation.

NEW SECTION. Sec. 12. This act takes effect January 1, 2024.



Education

Let's be Fair

For the past 2 years every real estate broker in WA State has been required to take the 6 hour WA Fair Housing course. Though it is called "fair housing" it covers the WA law against Discrimination and is required for all commercial brokers also.

Once you have completed the requirement for the 6 clockhour class, you will be required to take the 3 hour WA Fair Housing class. Yes, again, more fair housing as the legislature in WA State has deemed the topic so seriously that you will forever take a 3 clockhour fair housing for ALL subsequent renewals. YES!

The Dept of Licensing creates the curriculum. The current 3 hour curriculum was not open for discussion or any meetings with stakeholders. We received it and can write out classes based on the outline. Make sure you check out the class that I have written!

Right to the Core

The Core Curriculum class required every two years is being rewritten/revised for 2024-25. Natalie has worked with the Dept of Licensing to give input for every core that we have had to take over more than a decade! On a regular basis, Natalie is asked if the core is still required. YES it is required... Just take whatever core is available (there is only one) during the two year renewal period.

Every two years EVERY broker must take the core class for each two year renewal. That is 40,000 brokers in the state have to sit through a 3 hour class. The class is usually met with groans instead of raves. The core class is a 3 hour class. It can be written as a longer class but the requirement is that it be at LEAST 3 hours.

Just the other day an agent insisted that after being in the industry for the past 30 years that he is not required to take the core. I had to explain that it is, in fact, required to renew every real estate broker's license.

The Association of REALTORS required that their members take an ethics class every 4 years. **The ethics class is NOT the core class.** NOT all brokers are REALTORS! Only the members of the REALTORS are required to take an ethics class at year end (not for their license renewal). It is often free online from NAR.

The core class will next be revised in Jan 2026-27. The core class just “morphs” into the “new” core class. As a broker you never have to be concerned about what core to take. Just take whatever is available during the two years you have to renew! There will be only one core at any time. There are many people out there thinking that they have to wait to take the “new” core. I just shake my head. It is pretty simple. Brokers have two full years to take the core... whatever core class they walk into during that time is good!

The core curriculum is written by committee. I always say the old cliché, “A camel is a horse created by committee.” People have different expectations what should go into the core class. The current core class 2024-2025 is so much like the one for the last two years as they used it as a template. There is some new legislation added and information on forms and the changes to Agency Law. The other half of the core is basically cut and pasted into the new class.

Earn your Managing Brokers License

Consider the importance of having a Managing Broker license! As the industry moves to more teams, firms will be requiring managing brokers to manage the teams. They will be delegated responsibilities.

In addition, the information you will learn will make you a more educated broker. This will help you get transactions closed more effectively and be well versed on legal issues.

Natalie has authored the classes for the past 30 years. There is still a broker who was her first Managing Broker student at her first office who is still an active successful managing broker.

You must have 2 years experience, the required education of 90 hours, and pass the exam.

You are required to take 90 clockhours. (that cannot also be used for a 30 hour renewal.)

The required classes are available as self-study on the Clockhours.com website.

In addition, Natalie holds weekly zooms for an extra fee to help candidates study. She wrote study guides for the state and national sections of the exam. During the workshops, the candidates ask questions, answer quizzes and discuss topic areas that will be covered on the test. Brokers can continue to be a participant until they pass the exam. No one in the state is even attempting to write any cram class or help people pass the exam.

Renewing your Real Estate License

It is estimated that most brokers, probably 80% do not have the required clockhours to renew within 60 of their renewal. You can renew up to 120 days prior to the renewal date.

BUT ... NOTE... You cannot renew unless you have completed the clockhours. You check a box on the SecureAccess.WA.gov account that says... “Under penalty of perjury, I have taken the required clockhours.” If you pay without taking the clockhours, you have checked that box! I wouldn’t want to be in your shoes when audited! YIKES!

Real estate brokers still contact the school regularly asking questions about the requirements for continuing. A clockhour is 50 minutes. You cannot take 30 hours in a 24 hour period, for example. The guideline from the Dept of Licensing is that if you take 30 hours it must be over 4 days... no more than 10 hours a day.

Real estate brokers call and email the schools with these questions?

- Can I just get the numbers and I promise to take the classes this summer?
- Can I just take all the classes today to renew my license?
- Why do I have to take the core class when I took it last renewal?
- Oops. I took the same class last week. (same course number) Can I use both certificates?
- What can I do? If I don't get my certificates by midnight, I'll lose my license!

If an agent does not have the required courses and number of hours when they renew, the agent will not automatically lose their license. The real estate agent will be "unlicensed" when the license expires. The real estate agent cannot sell real estate without a current license. The agent cannot take a listing, show properties, answer client questions or get paid. The agent can remain unlicensed and has up until one year to get those clockhours. There are times, for example, that a real estate agent is not currently an active real estate agent due to another job or illness and lets the license expire taking the extra year to do clockhours. From my experience as a school, even those agents scramble as the year rushes up quickly.

Press hard

In 2013, 17% of fingerprints were rejected. This number was cut in half in 2014 as the Dept of Licensing sent out two fingerprint cards. The extra card was kept on file in case there was a problem with the first card. It eliminated over 750 people from having fingerprints retaken. No more do you go to the police station for fingerprints.

As of 2017, the DOL hired a contractor to be responsible for fingerprinting and background checks! This means that the DOL does not have to deal with privacy issues and destroying personal information. They contract the process to a vendor. Make sure that you go online to the DOL website to make an appointment for fingerprinting if your license is requiring it this year.

Real estate brokers that were in the first crop fingerprinted will again go through the routing. These kinds of questions are constantly asked.

- Why do we have to get fingerprinted again? Because they don't keep your prints on file.
- Why do I need to get fingerprints for real estate when I have had this done before. (my gun permit, teacher, school bus driver, etc) Because government agencies don't share like we taught our kids.
- Why do people still get real estate licenses if they have a black mark on their record. Because it is up to the discretion of the staff at the Dept of Licensing.

The Department of Licensing has contracted with a company to process the fingerprints and the background checks. You NO longer go to the police station to have this done. Check the DOL website to see the locations and MAKE AN APPOINTMENT. Check your SecureAccess.wa.gov to see if you are required to get fingerprints at least a month or two prior to renewal! Fingerprints take time so be prepared. Six years comes up quickly.

Disclosure

Let them Know

The Property Information Disclosure form was amended many times over the years to add 4 specific issues. Note that there are now questions relating to accessibility including stairway lifts, wheelchair lifts, elevators, and inclines. In addition, there is a question about internet access.



Some attorneys used to refer to the Property Information Disclosure law as “the lawsuit.” It is a constant source of disputes because the seller often doesn’t disclose all the information about the property that would affect a buyers decision to buy. The buyer also has a tendency to rely on the form and not do further research into issues disclosed prior to the closing.

It is the buyers duty to BEWARE, INSPECT and to QUESTION.

Before a buyer has a remedy he or she has to prove diligence in light of the information that was provided. The reason a seller does not fully disclose is most likely to get more money for the property than if they disclosed, or to sell to a buyer who would otherwise not buy. If the real estate broker has knowledge that would affect the sale because of a lack of disclosure, the broker should discuss this with the designated broker. This can include negative stigmas which are not addressed in the property information disclosure form and only on the agency law pamphlet.

I feel the earth move under my feet

There was a proposal to add the Dept of Natural Resources mapping for landslides to the last core class but that did NOT happen. About 13% of Washington has hazardous slide areas. There is a lawsuit in Washington where one issue is that they are claiming the agent didn’t suggest they get expert advice on matters above the broker’s expertise focusing on the issue of a house built on land that may be unstable. Don’t hesitate to recommend an inspection for anything a buyer might be concerned about including hillsides and wetlands.



Forms

Evidence of Funds

How is the evidence of funds forms to be used on all transactions?

It is recommended that all purchase and sale agreements that include funds other than a mortgage loan, use the Evidence of Funds form. There have been times when the buyer claims to have funds to close a transaction, but they do not have the funds available. The buyer might “hope” that the funds will be available, for example. The

Evidence of Funds form was created to allow disclosure of the funds and whether they are available or contingent. The buyer is compelled to give notice that they will provide evidence of the funds needed to close. If there are no funds at closing, this form would not be used.

Inspection Addendum and Response

It is a best practice to encourage the buyer to have a professional inspection completed on the property. The inspection addendum deals with the time frame and the response. Often, the buyer requests repairs or additional inspections on specific issues.

The inspection addendum has been changed to create a process dealing with the problems that are identified by the buyer’s inspector. The repairs needed are determined by the buyer’s contractor so that the brokers are not acting as contractors.

Know the changes and new language on the inspection contracts

“Buyer is prohibited from delivering Buyers inspection report or any pages of Buyers inspection report to seller unless the seller requests delivery.”

What if seller requests it?

If seller requests a copy of the report. Make sure that you have WRITTEN instructions from the seller to provide the report.

If the seller requests it in the original purchase and sale agreement, the buyer must give the seller the inspection.

Inspection report identifies problems.

If a buyer is triggering the Additional Inspection Provisions then the buyer must deliver a page of the buyer’s inspection report where the need or recommendation to seek additional inspections of buyers property.

What if there is wrongful deliver of the inspection report?

If a buyer delivers to the seller a copy of the buyer's inspection report without seller's request, then the buyer is in breach of contract.

What is the remedy for that breach?

Was there damage as a result of that breach? Were the damages material or not? Did the seller have to hire a contractor or expert to refute some finding that may or may not be accurate in the inspection report? A damages claim could be justified. The buyer doesn't evaluate if there are damages. That would be determined by the seller and their lawyer.

The benefit of the Form for the Brokers

This new language and requirements were written so that brokers are not drafting their own contracts with information they are not qualified to deliver. The brokers have traditionally listed out on addendums what the broker thinks seller needs to do to complete repairs identified in the report. Brokers are not contractors and have the ability know what needs to be done to correct the items an inspector list. In addition, neither broker tries to satisfy the problems identified by the inspector.

How does the buyer's broker prepare the request for repairs if they can't provide pages of the buyer's inspection report?

The contractor that does the work is the one that can determine the repairs. A buyer can get a contractor to write a bid for the repair. Attach a copy of the bid to the response. Seller then hires the buyer's contractor to perform the work identified on the bid. Must be done within 3 days before closing and the original inspector can re-inspect. This puts the buyer in control of the process to remedy the problems that the buyer believes is relevant.

What if the seller does not want the buyer's contractor?

The seller can go get a bid from another contractor to make the repairs listed in the bid by the buyer's contractor. The seller typically pays for the contractor.

How does it get done in the time frames identified?

On the form, the buyer can't bring a contractor into the house without the seller's permission during the original inspection period.

The **additional** inspection period of 5 days allows buyer to bring specialists into specialists into the seller's home based on inspector recommendation.

How to provide for additional time?

Some brokers are shifting the time frames so that the original inspection time is less and increasing the additional inspection time. That can help brokers respond to the inspection issues.



Legislative

FUTURE LISTING CONTRACTS

SB 5399: "Future Listing Contracts" grant an exclusive right to list residential real estate for sale in the future with includes, but is not limited to, any document recorded in the county where the real estate is located relating to the contract including the contract itself, a memorandum concerning the contract or a deed of trust to secure the terms of the contract.

There are companies across the US that are using call centers and contacting people with equity in their home. In exchange for a couple thousand dollars, the homeowner agrees to sign some documents which include a "future listing contract" that expires in most cases after 40 years. (not a typo). When the homeowner goes to sell, the listing company is nowhere to be found. They find that there is a cloud on the title, sometimes as a "memorandum" that requires that the seller must pay usually 6% of the sales price to the future listing company at closing. So far, there has been no way to stop them so the legislature quickly passed this bill unanimously and it became effective May 2023. There are hundreds of homeowners that have already signed these contracts and cannot sell without paying tens of thousands of dollars to the questionable companies. This does not cover the homeowners who have already signed the contracts.

The bill limits future listing contracts to no more than 5 years. An owner has ten days after entering into one of these contracts to provide a notice of cancellation which allows the owner to get out of the contract without penalty or further obligation. A future listing right purchase contract is prohibited from being used as a lien against real property.

The attorney general may bring action to enforce compliance with this section by making the provisions subject to the Consumer Protection Act.

If you find that a seller has a cloud on the title that may be in the form of a memorandum and they may have signed one of these future listing contracts, you should immediately have the owner contact an attorney prior to listing the property.

NOTE: The Real Estate Commission is to have a workgroup to examine practices used by real estate brokerage companies to market, establish, and enforce future listing right purchase contracts and to report back to the legislature by Dec 1, 2024, with findings and recommendations.

This law specifically states the "future listing contract." There are talks that a similar law should focus on the length of buyer brokerage agreements.

LANDLORD/ TENANT LAW CHANGES

HB 1074: A landlord may not withhold a deposit from tenant for wear resulting from ordinary use of the property, for carpet cleaning unless it is beyond wear from ordinary use, for costs of replace of fixture if their condition was not reasonable documented in the move-in checklist, and in excess for the cost of repair when premises damaged beyond ordinary care.

EARLY OR DELAYED OCCUPANCY

When a buyer allows the seller to occupy the property after closing, it is exempt from the Landlord Tenant act if it is less than 90 days. The buyer cannot pay the seller rent, it cannot be a “distressed property,” and the parties must be represented by an attorney or real estate broker at closing.

Your agency relationship, most likely, terminated at the time of closing. You need to be careful practicing law by advising clients either to offer a rent-back, a delayed occupancy, or on how to deal with a tenant that will not vacate.

If a seller gives the keys to a buyer prior to closing, it is not exempt under the new law changes. The owner of the house may not have insurance that covers the property or the contents if they have agreed to let the buyer move in early or if the seller remains in the property after closing. The owners must have adjusted their homeowner’s insurance.

Trying to evict a seller or buyer as a tenant can take many months. Legal requirements must be met from offering a repayment plan to Eviction Resolution Mitigation. If the seller or even the buyer was offered occupancy without rent, this can become more complicated because the rent must be negotiated in a repayment plan if they refuse to move out.

As the eviction moratoriums are going away as the pandemic wanes, the laws are becoming very strict to protect the tenants from becoming homeless. The new Just Cause law can be found at: RCW [59.18.650](#) Eviction of tenant, refusal to continue tenancy, end of periodic tenancy—Cause—Notice—Penalties.

Even though the NWMLS has forms 65 for occupancy prior and after closing, it is best for a broker to refer any buyer or seller to obtain legal advice prior to agreeing. The seller or buyer as a tenant could be in a situation through no fault of their own where they cannot move! It can become very complicated.

Marketing



Really... Are you hiding the firm you work for?

Real estate brokers must hang their license with a designated broker. Licensing law says that a broker must disclose the firm in a clear and conspicuous manner on all advertising. The guidelines from the Dept of Licensing state that this disclosure must be within “one click” on any webpage. Brokers are making it difficult for a consumer and the Dept of Licensing to find what firm they are licensed with. How about your signs? Is the firm name obvious?

Take a look at your signs, websites, cards, and any advertising medium. Can the consumer easily recognize the firm name and the broker name as licensed?

Photos of your listings

At the dining table of your brand new listing with all the agreements signed, the sellers hand over a thumb drive and prints of their beautiful home. They ask you to use the photos when marketing their home. The photos might have wonderful panorama shots. They also might include spectacular drone photos. Maybe the photos were taken with a drone near a lake with a float plane landing area?

The big question to ask your seller... “Do you own or have the rights to those photos?” On the listings agreement the seller agree that they own or have permission for the photos. There is an “indemnification statement.” If the sellers don’t have permission to use the photos, there could be a battle with the photographer.

Video and Audio recording

Just about every person is always walking around with a camera and video camera in their pocket.

Washington State laws regarding recording or divulging private communication RCW 9.73.030 requires consent to record any private communication between two or more individuals by an electronic device without getting consent of all the participants. Consent would be considered obtained when one party has announced to all other parties engaged in the conversation, in any reasonable effective manner, that such communication or conversation is about to be recorded or transmitted. This statute has been on the books for over 30 years.

When sellers list their home they open the doors to brokers and clients to preview the property. In this day of constant electronic recording, it would almost be expected that buyers would take photos inside the house. In addition, there are sellers that have installed and hidden video sometimes including audio recording in the house. You should not tell the sellers to remove video/audio recording because they may need it for privacy and security reasons. Inform them of the law regarding audio recording of prospective clients.

If there is any chance that the seller has audio recording, they should notify any person entering that they may be recorded. A prominently displayed sign would most like be adequate, according the Justin Haag, from the NWMLS.

Zillow is an advertising medium

This year the changing business practices meeting met with an attorney and public relations executive from Zillow. The discussion was open to questions from the attendees and committee members even on the conference call. It was interesting to me because there was such a heated discussion it seemed about Zillow at a previous meeting yet there really was nothing to say when they were clear they are an “advertising medium like an online classified newspaper” and “Zillow has no intention of selling real estate.” The two hottest issues seem to be the “Coming Soon” listings on Zillow that are violations of our NWMLS and that Real Estate agents are letting lenders pay for their advertising on Zillow.

Real estate brokers are under the impression that the NWMLS feeds the listing information directly to Zillow for publication. That is NOT a correct assumption. Zillow gets the listing information most often from the real estate firms themselves. In some cases, real estate brokers provide the information.

Off Market listings and Sales

Wow, this was a hot issue at a legal seminar. Pocket listings are violating our MLS rules. They also are not good for the homeowner as they will most likely not get full value if not exposed to the open market. This could leave the agent with some liability.

Off market listings are considered any listing that is not exposed to the open market, which in our case is the local MLS. Pre-listing, coming soon or whisper listings are where the broker has engaged a seller in a limited marketing arrangement to premarket or sell prior to executing a listing agreement.

There are problems with off market and pocket listings when you are a member of an MLS. The motive for a real estate broker to have a “pocket listing” agreement with a seller instead of an actual signed listing agreement with the MLS is usually to beat the market.. The excuses listed included: the seller did not want to be identified, the house needed to be staged, the owner not ready to show, the property is high end, the owner wants to limit exposure (could be dangerous under fair housing), the owner wants to “test” the market, etc. All those are basically excuses and as a real estate instructor I also hear them in my classes.

As a real estate agent and member of the MLS and most often the REALTORS, you are bound by the laws, rules and guidelines in order to sell real estate for a commission in our state. The NWMLS rule says that “Members shall not promote or advertise any property in any manner whatsoever, including but not limited to yard or other signs, flyers, websites, email, texts, mailers magazines, newspapers, open houses, previews, showings and tours, unless a listing for that property has been delivered to NWMLS or input by the member and has not been cancelled or expired.”

Most often, the broker is not disclosing to the firm. Most experts believe that having pocket listings that are not exposed to the open market are simply motivated by greed.

The median sales price for a listing that sells through the MLS is between 9%-30% higher than if property sold as off market. The value of the MLS is much greater than the consumers realize.

Rookies

A total of 7803 people took the real estate exam in 2014. This is a 26% increase over last year. Of those 3938 were issued licenses, which is a 32% more than 2013. Because so many taking the exam sneak in with a cell phone, the implementation of metal detectors will most likely happen soon. Helps avoid cheating. People are flooding into this profession.

You have more competition than you have had in probably a decade! That means those “Rookies” are out there in the community doing the marketing that you were taught when you were new. Are you in touch with all your family, friends, past clients, neighborhood... your entire sphere? About 20% of your sphere NEEDS your services at any given time. That means that if you are not available, they may end up with a rookie. Now that is not to say that rookies are not capable and often great agents... We were all rookies but, they now have two years of oversight by a managing broker. They are after your sphere... the people you are not connecting with regularly. The other advantage that rookies have, is that many of them are young and well versed in social media!

Statistics generally show that only a fraction of the rookies stay for a full two years. Real estate sales is not an easy business to succeed in. If you are reading this class, I can guess that you are succeeding! Congratulations!



Red Hot Issues in Real Estate

1	The agency law pamphlet lists the reasons for agency termination.	T	F
2	A brokerage services agreement is required only when working with buyers.	T	F
3	Brokers owe the duty to have a brokerage services agreement signed as soon as reasonably practicable.	T	F
4	A 3 clockhour fair housing class will be required for all subsequent renewals after the broker has complied with taking the 6 hour class.	T	F
5	A requirement to apply for a managing brokers license is 5 years experience.	T	F
6	Fingerprints required every 6 years for all licensees can be done at the local police station.	T	F
7	Fair Housing and Core Classes will continue to be required for every 2 year renewal.	T	F
8	A real estate broker is not to renew and pay for their license renewal without completing the required clockhours.	T	F
9	It is the buyer's duty to BEWARE, INSPECT AND TO QUESTION when some problems have been identified in an inspection.	T	F
10	The property information disclosure form has sections to disclose accessibility improvements.	T	F
11	The evidence of funds form should be used when a buyer is relying on contingent funds.	T	F
12	If a buyer must put down a substantial amount of cash, it is a good practice to have the Evidence of Funds form signed.	T	F
13	If a buyer emails the seller the full inspection without permission, the buyer could be in breach of contract.	T	F
14	If a seller agrees in the purchase and sale agreement that they want a copy of the inspection	T	F
15	When a buyer completes an inspection, the buyer is not allowed to give the seller a copy without seller's permission.	T	F
16	Under the inspection contracts, the buyer gets contractor bids on any work that must be done.	T	F
17	The legislature passed a law limiting listing agreements to a term of no more than 5 years.	T	F
18	A landlord must not withhold deposit funds from damage from ordinary wear and tear.	T	F
19	A seller who remains in the property after closing for less than 3 months is not subject to landlord tenant law.	T	F
20	The firm you represent must be listed on all advertising and within one click on social media.	T	F

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

Name _____ Date _____



Mandatory Evaluation

Did you read the material in the booklet on this date? YES / NO
 Did you complete the quiz and attach answer sheet? YES / NO
 Did you fill out and sign this form? YES / NO
 Did you pay tuition? YES / NO
 Why did you choose to take this course? Topic? Time? Cost? Ease? Other?
 A "clock hour" is 50 minutes. This 3 hour class should take about 2 hrs 30 min. How long did it take you to complete the course? __

Will the material you learned improve your performance?	
Were the course materials easy to follow?	
Were the course materials relevant to your profession?	
Were your objectives met by attending the class?	

What are 3 things that you learned from the course?

1. _____ 2. _____ 3. _____

Red Hot Issues in Real Estate		
Print Name CLEARLY	Signature	Company
Address	City Zip Code	Phone
	Email	
License Renewal Date		Date class taken

Thanks for taking this class! I really appreciate the agents that take clockhours from my school! I am always working on my classes and writing new ones! Natalie

Professional Direction,
www.clockhours.com
 email: **clockhours@gmail.com**