



Dept. of Professional & Financial Regulation
Office of Professional & Occupational Regulation
MAINE REAL ESTATE COMMISSION

35 State House Station Augusta ME 04333-0035



REAL ESTATE BROKERAGE RELATIONSHIPS FORM

Right Now You Are A Customer

Are you interested in buying or selling residential real estate in Maine? Before you begin working with a real estate licensee it is important for you to understand that Maine Law provides for different levels of brokerage service to buyers and sellers. You should decide whether you want to be represented in a transaction (as a client) or not (as a customer). To assist you in deciding which option is in your best interest, please review the following information about real estate brokerage relationships:

Maine law requires all real estate brokerage companies and their affiliated licensees ("licensee") to perform certain basic duties when dealing with a buyer or seller. You can expect a real estate licensee you deal with to provide the following **customer-level services**:

- ✓ To disclose all material defects pertaining to the physical condition of the real estate that are known by the licensee;
- ✓ To treat both the buyer and seller honestly and not knowingly give false information;
- ✓ To account for all money and property received from or on behalf of the buyer or seller; and
- ✓ To comply with all state and federal laws related to real estate brokerage activity.

Until you enter into a written brokerage agreement with the licensee for client-level representation you are considered a "customer" and the licensee is not your agent. **As a customer, you should not expect the licensee to promote your best interest, or to keep any information you give to the licensee confidential, including your bargaining position.**

You May Become A Client

If you want a licensee to represent you, you will need to enter into a written listing agreement or a written buyer representation agreement. These agreements **create a client-agent relationship** between you and the licensee. As a client you can expect the licensee to provide the following services, **in addition to** the basic services required of all licensees listed above:

- ✓ To perform the terms of the written agreement with skill and care;
- ✓ To promote your best interests;
 - For seller clients this means the agent will put the seller's interests first and negotiate the best price and terms for the seller;
 - For buyer clients this means the agent will put the buyer's interests first and negotiate for the best prices and terms for the buyer; and
- ✓ To maintain the confidentiality of specific client information, including bargaining information.

COMPANY POLICY ON CLIENT-LEVEL SERVICES - WHAT YOU NEED TO KNOW

The real estate brokerage company's policy on client-level services determines which of the three types of agent-client relationships permitted in Maine may be offered to you. The agent-client relationships permitted in Maine are as follows:

- ✓ The company and all of its affiliated licensees represent you as a client (called "**single agency**");
- ✓ The company appoints, with your written consent, one or more of the affiliated licensees to represent you as an agent(s) (called "**appointed agency**");
- ✓ The company may offer limited agent level services as a **disclosed dual agent**.

WHAT IS A DISCLOSED DUAL AGENT?

In certain situations a licensee may act as an agent for and represent both the buyer and the seller in the same transaction. This is called **disclosed dual agency**. *Both the buyer and the seller must consent to this type of representation in writing.*

Working with a dual agent is not the same as having your own exclusive agent as a single or appointed agent. For instance, when representing both a buyer and a seller, the dual agent must not disclose to one party any confidential information obtained from the other party.

Remember!
Unless you enter into a written agreement for agency representation, you are a customer—not a client.

THIS IS NOT A CONTRACT

It is important for you to know that this form is not a contract. The licensee's completion of the statement below acknowledges that you have been given the information required by Maine law regarding brokerage relationships so that you may make an informed decision as to the relationship you wish to establish with the licensee/company.

To Be Completed By Licensee

This form was presented on (date) _____

To _____
Name of Buyer(s) or Seller(s)

by _____
Licensee's Name

on behalf of _____
Company/Agency

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To check on the license status of the real estate brokerage company or affiliated licensee go to www.maine.gov/professionallicensing. Inactive licensees may not practice real estate brokerage.

EXCLUSIVE BUYER REPRESENTATION AGREEMENT

AGENCY: _____

DISCLOSURE PROVISIONS

APPOINTED AGENT:

Agency has a policy of appointing a specific agent(s) (hereinafter "Appointed Agent") within the Agency to represent you. This practice is authorized under Maine State law and is regulated by the Maine Real Estate Commission. The Appointed Agent(s) representing you is/are _____ and holds a

_____ Maine real estate license. The Appointed Agent(s) will owe you, the client, fiduciary duties, which include among other things, the obligation not to reveal confidential information obtained from you to other licensees, except the designated broker or the designated broker's designee for the purpose of seeking advice or assistance for your benefit. This Agency may be representing both the Seller and the Buyer in connection with the sale or purchase of real estate. Should the appointed agent named above be unable to fulfill the terms of the brokerage contract, or by agreement between you and the designated broker, another agent from this Agency may be appointed during the term of your brokerage contract with this agency. Appointment of another agent as a new or additional agent does not relieve the agent named above of any fiduciary duties owed to you.

If a replacement or temporary appointed agent is appointed to represent you either to replace the original appointed agent, or while that agent is temporarily unavailable, a new Disclosure and Agreement will be entered into with you by the Agency. Once the original appointed agent agreement is terminated, or the temporary appointed agent agreement is terminated by expiration, the original agent or temporary agent will no longer be representing you and will owe you no further duties or obligations except the duties to account for money and property and to maintain confidentiality of information as set forth in 32 M.R.S.A. Sec 13281 (2).

Client has read Appointed Agent Disclosure prior to entering into a brokerage contract with Agency, and hereby consents to the appointment to the Agent(s). Yes No

DISCLOSED DUAL AGENT:

Client(s) acknowledge they have been informed by Agency that the Agency has a policy that permits Disclosed Dual Agency. This practice is authorized under Maine State law and is regulated by the Maine Real Estate Commission. In a transaction where a Buyer Client desires to purchase a Seller Client's listing, Disclosed Dual Agency may arise. In serving as a Disclosed Dual Agent, Agency:

1. represents two clients, the Buyer and the Seller, whose interests are adverse and the agency duties are limited;
2. may disclose to Buyer any information provided by Seller and may disclose to Seller any information provided by Buyer except:
 - the willingness or ability of Seller to accept less than the asking price;
 - the willingness or ability of Buyer to pay more than has been offered;
 - confidential negotiating strategy not disclosed in the sales offer as terms of the sale;
 - the motivation of Seller for selling and the motivation of Buyer for buying.

Client has read and understood the Agreement; Client understands they may choose to consent, or not consent, to Agency serving as a Disclosed Dual Agent. Client hereby voluntarily consents to the Agency and Appointed Agent acting as a Disclosed Dual Agent. Yes No

_____(hereinafter "Buyer") Buyer hereby retains _____(Agency) on an exclusive basis and in consideration of its efforts to locate and/or assist in the acquisition of real property suitable to Buyer by way of purchase, exchange, option, lease or otherwise, consistent with the terms and conditions below.

1. This Agreement begins on _____ and will expire on _____("Expiration Date"). If at such expiration date Buyer has placed a property under any type of contract and the transaction is still pending, the expiration date of this Agreement shall be extended until completion of that transaction by either closing/transfer of title or termination/expiration of the contract. This Agreement is specific to properties located in the following areas: _____

_____ Yes No This Agreement will terminate upon the closing/transfer of the property pursuant to this contract and will not extend through the Expiration Date.

2. Agency responsibilities:

- a. Make available to the Buyer the Agency's professional skills and resources in locating, negotiating and closing on property determined by Buyer to be suitable to Buyer's needs;
- b. Assist the Buyer to determine current market value, if requested by Buyer;
- c. Will not reveal confidential information obtained from Buyer to other licensees, except to the Designated Broker or the Designated Broker's designee for purposes of seeking advice and assistance of benefit to Buyer;
- d. Assist Buyer, if requested, to locate property-related professional assistance (e.g., survey, tax, legal, inspection of building and/or systems) or other areas that Buyer indicates are crucial to the transaction.

Page 1 of 3 Buyer's Initials _____

3. Buyer responsibilities:
 - a. Work exclusively with Agency; Refer all properties of interest and conduct all negotiations through Agency for any property of interest to Buyer;
 - b. Furnish Agency with necessary personal and financial information to verify Buyer's ability to purchase property;
 - c. Consult with Agency before visiting open houses, contacting any other agency or "For Sale by Owner" properties to avoid confusion over the agency relationship or misunderstanding about liability for commission;
 - d. To make an independent investigation and determination that neighborhood, amenities, and non-property related issues meet Buyer's needs;
 - e. Request in writing that Agency investigate or verify specific issues and receive Agency's agreement to do so.
 - f. Retain sole and exclusive responsibility to evaluate the qualifications and make the final selection of any property-related professionals (e.g. builders, contractors, surveyors, building inspectors, tax advisors, attorneys, closing agents).

4. Compensation:

Agency commissions are not set by law and are fully negotiable.

- a. Retainer Fee: Upon signing of this Agreement, Buyer shall pay \$_____dollars to retain Agency's services during this period. This retainer fee is not refundable but shall be credited to the Buyer at closing.
- b. For listed property, Buyer agrees to pay, or cause to be paid, to Agency a commission of \$_____or _____% of the purchase price, whichever is greater. If Agency is paid some or all of the above amount from the Seller or out of the listing agency's commission, Buyer will only be required to pay the difference, if any. Agency shall not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in this Agreement. The payment of any of the above commission by the Seller(s) or listing agency will not make Agency either the agent or subagent of the Seller(s).
- c. For unlisted property, Buyer agrees to pay, or cause to be paid, to Agency a commission of \$_____or _____% of the purchase price, whichever is greater. If the Seller pays some or all of the above amount to Agency, Buyer will only be required to pay the difference, if any. Agency shall not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in this Agreement. The payment of any of the above commission by the Seller will not make Agency an agent of the Seller.
- d. Carryover Date: If, within 6 months of the expiration of this Agreement, Buyer receives an interest in property by way of purchase, exchange, option, lease or otherwise, which property was introduced to Buyer during the term of this Agreement, a commission will be due Agency unless Buyer in good faith has entered into a subsequent Buyer Representation Agreement with another agency. Introduction to the property includes receiving any information concerning the property, being shown the property or presenting offers on the property. All rights under this paragraph shall expire on _____ (by statute cannot exceed 6 months after expiration).
- e. The commission will be earned when a contract has been accepted by a Seller and all contingencies have been satisfied. The commission will be earned even when Buyer pursues the acquisition of property on their own without the involvement or assistance of Agency.
- f. Disclosure of Agency Compensation Policies

Yes No This Agency's policy is to compensate other agencies.

Yes No If Yes, this Agency's policy is to compensate all other real estate brokerage agencies in the same manner.

Yes No This Agency's policy on paying commissions to its affiliated licensees is to provide a greater commission for an in-house sale versus sales involving a cooperating real estate brokerage agency.

5. Other Conditions:

- a. This agreement includes property for sale by owner, property not currently for sale, unlisted new construction and property listed for sale by this or other real estate agencies.
- b. All properties are acceptable at the sole and absolute discretion of Buyer.
- c. Buyer agrees that Agency and its agents may present the same property to other prospective buyers and may represent other buyers in the acquisition of the same property.
- d. Agency will cooperate and compensate other agencies if appropriate in locating property for Buyer under this Agreement.
- e. Agency will not be responsible for independently investigating or verifying specific information not related to the property itself.
- f. Agency will not be responsible for independently verifying information supplied by other licensees, outside professionals or government agencies, third party advice, data or specific information unless agreed in writing by both parties.
- g. Agency will not be responsible for determining the applicability of, or compliance with, any federal, state or municipal codes, including, but not limited to, fire, life safety, electrical and plumbing.
- h. Buyer acknowledges Agency's advice to seek legal, tax and other professional advice as necessary relating to proposed transaction.

- i. Buyer authorizes the disclosure of information herein to Maine Listings, closing agent, and lender, if any, upon request for verification and compliance purposes.
- j. For properties not listed in the MLS, Buyer authorizes publication of property and applicable disclosure attachments in the MLS and use of information for marketing, appraisal, and statistical purposes.

Additional Conditions: _____

Buyer(s) acknowledges receipt of a copy of the Residential Property Transaction Booklet Yes No

Buyer(s) acknowledges that properties shown to Buyer(s) may be monitored by audio and/or video surveillance equipment and any discussion held at the property may not be confidential.

Agency and Buyer agree that Agency shall represent Buyer and that this Agreement creates an agency/client relationship as defined in the Real Estate Brokerage License Act.

Properties shall be presented without regard to race, color, religion, sex, physical or mental disability, familial status, ancestry, sexual orientation, gender identity, or national origin as defined in Maine state law or because the person sought and received a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation.

I hereby consent to receive fax or other electronic transmissions from Agency to fax number(s) and/or email address(es) provided herein.

This agreement may be signed on any number of identical counterparts with the same binding effect as if the signatures were on one instrument. Original or faxed or other electronically transmitted signatures are binding.

Pursuant to the Maine Uniform Electronic Transactions Act and Digital Signature Act, the parties authorize and agree to the use of electronic signatures as a method of signing/initialing this Agreement, including all addenda. The parties hereby agree that either party may sign electronically by utilizing an electronic signature service.

 BUYER

 BUYER

 BUYER

 BUYER

BUYER(S) Mailing Address: _____

BUYER(S) Phone Number(s): _____

BUYER(S) E-mail Address: _____ BUYER(S) Fax Number(s): _____

Accepted by AGENCY on _____(Date)

By: _____

Name:

Its Authorized Signer



CYBER / WIRE FRAUD ADVISORY

Buyers and sellers need to exercise extreme caution when wiring funds in real estate transactions. Criminals/hackers target email accounts of real estate licensees as well as other parties involved in real estate transactions, including mortgage brokers, closing attorneys, and title agents. In many cases, they have been able to intercept emailed wire transfer instructions, obtain account information and, by altering some of the data, use emails to redirect the funds to a different account. These emails are convincing and sophisticated and may look like legitimate emails from parties in the transaction. You should look carefully at the entire email address as it may look legitimate but will contain some small change to fool you for example, joe@acme.com becomes joe@acrne.com a very hard distinction to pick up. If you believe you have received questionable or suspicious wire transfer instructions, immediately contact the title company/closing agent and your real estate professional.

Do NOT Initiate the Electronic Transfer of Funds (Wires) Without Double Checking the Legitimacy of the Destination

In every real estate transaction, Buyer and Seller are advised to:

- **Never wire funds without personally speaking with the intended recipient of the wire to confirm the routing number and account number.**
- **Verify that the contact information for the wire transfer recipient is legitimate. Buyer and seller should each call using a phone number that has been independently obtained, not the phone number contained in the email containing the wiring instructions.**
- **Never share personal information such as social security numbers, bank account numbers and credit card numbers, unless it is through secured/encrypted email or personal delivery (or phone call) to the intended recipient.**
- **Take steps to secure the system you are using with your email account such as using strong passwords and secure WiFi and email using a domain name account (safer than using a public account such as aol or gmail).**

If you suspect that you have been victimized by wire fraud:

- 1) Contact the financial institution immediately and ask them to do a "SWIFT recall".
- 2) Then call your local law enforcement immediately (town police department or county sheriff's office) to report the incident.
- 3) Then call the FBI immediately (24 hours or less) and let them know you are reporting the incident within 24 hours and file a complaint online at www.ic3.gov. Your chances of recovery are greater with less than 24-hour reporting.

To contact the FBI for Maine coverage:

Bangor: 207-947-6670 -- Portland: 207-541-0700 -- Boston, MA: 857-386-2000

Even if you cannot undo the damage, file a complaint as specified above as this will help track the criminals.

Again, Do Not Initiate Wires Without Double Checking the Legitimacy of the Destination