



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
REAL ESTATE COMMISSION

Penny Vaillancourt
OPOR Director



Joan F. Cohen
Commissioner

Real Estate Commission Public Meeting
April 16, 2026
AGENDA

Location: 76 Northern Ave. Gardiner, ME 04345

Room: Central Conference Room

Information regarding virtual attendance to this meeting will be posted on the Board's website at: <https://www.maine.gov/pfr/professionallicensing/professions/real-estate-commission/home/board-meeting-information>

Time: 9:00 a.m.

Contact: Shara Chesley, (207) 624-8521 Shara.Chesley@maine.gov

I. CALL TO ORDER

II. AGENDA MODIFICATIONS AND APPROVAL

III. MINUTES REVIEW AND APPROVAL

Review and approval of February 19, 2026, minutes.

IV. PROPOSED DISMISSALS

None

V. PROPOSED CONSENT AGREEMENTS

2025-REC-21120

2026-REC-21286

VI. DIRECTOR'S REPORT

- Offer Guidelines Memo
- Seller Verification Memo

VII. PUBLIC COMMENT

Under this item, the Commission will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Board, except for any open application or complaint. While the Commission cannot take action on any issues presented, the Commission will listen to comments and may ask staff to place the issue on a subsequent agenda. At the discretion of the Commission Chair, a time limit on comments may be set.

Office Location: 76 Northern Avenue, Gardiner, Maine 04345

Mailing Address: 35 State House Station, Augusta, Maine 04333

[Real Estate Commission | Office of Professional and Occupational Regulation](#)

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Shara.Chesley@maine.gov

VIII. MEETING SCHEDULE

Next meeting scheduled for May 21, 2026.

IX. ADJOURNMENT

**Minutes of the Maine Real Estate Commission Meeting
February 19, 2026**

<u>MEMBERS PRESENT</u>	<u>STAFF PRESENT</u>
Leanne Nichols, Chairman	Catherine Pendergast, Director
Jane B. Towle, Vice Chair	Jeffrey Hill, Deputy Director
Edith Fontaine	Kathryn Horst, AAG
Charles Brawn	Jazmyne Marks, Licensing Supervisor
	Shara Chesley, Office Specialist I
	Heidi Lincoln, Office Specialist I
<u>MEMBERS ABSENT</u>	

Location: 76 Northern Ave Gardiner, ME

Start: 9:00 a.m.

Adjourn: 9:41 a.m.

I. CALL TO ORDER

The meeting was opened by Chair Nichols at 9:00 a.m.

II. AGENDA MODIFICATIONS

None

III. INTRODUCTION AND OPOR UPDATE

Penny Vaillancourt, OPOR Director, introduced herself to members and provided information on development of an OPOR strategic plan.

IV. MINUTES REVIEW AND APPROVAL

A motion was made by Towle and seconded by Fontaine to approve the minutes of the December 18, 2025, meeting. Unanimous.

V. ELECTION OF OFFICERS

A motion was made by Towle and seconded by Brawn to elect Towle as Chairperson and Nichols as Vice Chairperson. Unanimous.

VI. PROPOSED DISMISSAL

A motion was made by Towle and seconded by Fontaine to approve dismissals 2022-REC-18542; 2023-REC-18956 and 2023-REC-19170. Unanimous.

VII. PROPOSED CONSENT AGREEMENTS

Nichols recused and left the meeting.

A motion was made by Brawn and seconded by Fontaine to approve consent agreements 2023-REC-19096 and 2025-REC-21159. Brawn, Fontaine and Towle voted in the affirmative. Motion carried.

Nichols rejoined the meeting.

A motion was made by Brawn and seconded by Fontaine to approve consent agreements 2025-REC-21088; 2025-REC-21114; 2025-REC-21126; 2025-REC-21132; 2025-REC-21137 and 2026-REC-21182. Unanimous.

VIII. DIRECTOR'S REPORT

Jane Towle provided an overview of the Commission she served on to Recommend Methods of Preventing Deed Fraud in the State.

The director provided information on LD 2182 An Act to Implement a Recommendation of the Commission to Recommend Methods for Preventing Deed Fraud in the State

IX. PUBLIC COMMENT

None

X. MEETING SCHEDULE

The next meeting is currently scheduled for Thursday March 19, 2026.

XI. ADJOURNMENT

A motion was made by Towle and seconded by Brawn to adjourn the meeting at 9:41 a.m. Unanimous.



Office of Professional & Occupational Regulation

Real Estate Commission
Catherine E. Pendergast, Director

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MEMORANDUM

To: Real Estate Commission Members
From: Catherine E. Pendergast, Director
Date: April 6, 2026
Subject: Offer Guidelines - Revisions

Real Estate Commission rulemaking effective October 26, 2026 resulted in the revision of Chapter 410 Section 12 Confidentiality of Offers and Purchase and Sale Contract Terms.

SECTION 12. Confidentiality of Offers and Purchase and Sale Contract Terms

1. A real estate brokerage agency or affiliated licensees shall not disclose any terms of an offer or counteroffer to anyone other than the parties to the offer or counteroffer without the prior written permission of the parties prior to withdrawal, expiration or written rejection of the offer or counteroffer.

A real estate brokerage agency or affiliated licensees shall not disclose the terms of an executed contract to anyone other than the parties to the agreement without the prior written permission of the parties prior to the transaction closing or terminating.

Buyer names and addresses are not terms of an offer and shall not be disclosed.

2. Notwithstanding the confidentiality provision contained in Section 12(1) of this chapter, any such document referenced in this section shall be made available to the Director of the Commission upon request.

Following are suggested changes to the Maine Real Estate Commission Real Estate Transactions Offers/Counter Offers – Guidelines approved June 2014 for consideration and discussion to align it with the revised rule.

DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
MAINE REAL ESTATE COMMISSION
REAL ESTATE TRANSACTIONS
OFFERS/COUNTER OFFERS – GUIDELINES
Approved June 2014

Guiding Principles – Seller/Buyer Client

Communicate early and often	<i>When taking a listing or entering into a buyer representation agreement the agent should explain to the client how offers and counter offers are handled and the possibility of multiple offers.</i>
The agent advises – the client decides	<i>The decisions about how offers will be presented, negotiated and ultimately accepted or rejected are made by the client – not the agent. All offers must be communicated and agent must keep client informed of stated interest in property.</i>
Offers and counter offers in writing	<i>Offers and counter offers should be in writing to ensure that the terms, time frames and legal obligations of the parties are understood. Written counter offers should include a specific time period for acceptance. Withdrawal of a written offer or counter offer should be made in writing.</i>
Confidentiality of Terms of offers and counter offers are confidential	<i>The Terms of offers <u>and</u> and counter offers may not be disclosed by agent without the prior written consent of <u>both the seller and buyer</u> the parties prior to withdrawal, expiration or written rejection of an offer or counter offer. Buyer names and addresses shall not be disclosed.</i> <i>Disclosing that a full price offer has been made is disclosing a term and is a violation.</i>
The existence of an offer is not confidential	<i>Disclosing that an offer has been made or that an offer may be received is not confidential information.</i>
Full-price offer does not obligate the seller to accept the offer	<i>Listing property for sale is an invitation from the seller for buyers to make offers. The seller is not obligated to sell the property even if a buyer makes a full price, cash offer.</i>
No priority to offers	<i>The first or highest offer made does not bind or otherwise limit the seller to act upon that offer before considering any other offers.</i>
Agent communication	<i>Agents should make reasonable efforts to keep cooperating brokers informed, consistent with client's instructions.</i>
Agents are not attorneys	<i>Agents should advise clients to seek legal counsel from attorneys regarding any questions about the legal status of an offer or contract.</i>

The Seller Client – An informed seller will be ready to make the right decision when an offer or multiple offers are received.

When taking the listing:

- *Discuss seller's motivation for selling.*
- *Discuss impact of current market conditions, i.e., season, types of financing, length of time on market.*
- *Review Guiding Principles (on page one).*
- *Explain that multiple offers may be received and that the client decides whether to disclose the existence of other offers to other agents and/or buyers.*
- *Confirm that decisions about how offers will be presented, negotiated and ultimately accepted or withdrawn will be made by the seller – not the agent.*

When the offer is received:

- *Discuss the terms of the offer(s) – if multiple offers, compare terms.*
- *Inform seller of any other interest in the property.*
 - ✓ *Potential of other offers*
 - ✓ *Scheduled showings*
 - ✓ *Recent showings that may require follow-up.*
- *Seller may instruct agent to keep the existence of offers or interest confidential.*

Seller's options – one offer:

- *Accept, reject, counter, delay during time for acceptance, seek out other offer or do nothing.*
- *Explain pluses and minuses of each option – including the potential of a buyer withdrawing an offer during a delay.*

Seller's options – multiple offers:

- *Accept one offer.*
- *Reject all offers and encourage "best" offers.*
- *Counter one offer (may withdraw counter, in writing, prior to acceptance) – do not inform other buyers.*
- *Delay during time for acceptance.*
- *Alert one or more buyers that they are in a multiple offer situation.*
- *Reject all offers.*
- *Do nothing.*
- *Consider the pluses and minuses of each option – delaying or inviting all buyers to make their "best" offer may produce better offer(s) or may discourage buyers who may withdraw.*

The Buyer Client – An informed buyer will be ready to make the right decision when making an offer.

When entering into a buyer agent agreement:

- *Discuss buyer's motivation for purchasing.*
- *Discuss current market conditions, i.e. season, types of financing, average length of time for properties on the market.*
- *Review Guiding Principles (on page one).*
- *Explain that multiple offers may be made on one property. In those situations, only one offer may result in a sale and one (or more) buyer(s) may be disappointed.*
- *Explain that buyer agent may have more than one client interested in the same property. In those situations, buyer agent will notify all clients who have expressed an interest in the property of any other interest and/or that an offer has been made.*
- *Explain that seller is not obligated to acknowledge, counter or reject an offer and may inform other buyers of existence of an offer or may do nothing.*
- *Confirm that decisions about how offers will be negotiated and presented or withdrawn will be made by the buyer – not the agent.*

When the offer is made – discuss with buyer the possibility of multiple offers:

- *Initial offer may be the only opportunity to buy.*
- *Inform buyer of any other interest in property buyer agent is aware of, even if from other clients of buyer agent who have expressed an interest in the property. Remind buyer client that buyer agent will notify those other clients that an offer has been made (terms and conditions remain confidential).*
- *There is no requirement that the buyer be informed by the seller or listing agent of the existence of other offers.*
- *Seller has the right to negotiate with only one buyer at a time and not reveal this to other buyers.*
- *The existence of the offer may be communicated to other buyers but the agent may not disclose the terms of buyer's offer without written permission of the buyer prior to withdrawal, expiration or written rejection of the offer or counter offer-5 but the existence of the offer may be communicated to other buyers.*
- *Seller may accept an offer on terms other than the price.*
- *All buyers may be notified to present their "best" offer – buyer may choose to:*
 - ✓ *make different offer*
 - ✓ *leave original offer*
 - ✓ *withdraw offer in writing if period for acceptance is current*
 - ✓ *do nothing.*

Offers and Counter Offers – FAQ's (Customer Status)

A customer is a buyer or seller not represented by a real estate licensee in a transaction.

1. What should I expect when I make or receive an offer?

- Offers, counter offers or withdrawal of an offer should be in writing;
- Terms of offers and counter offers are confidential **prior to withdrawal, expiration or written rejection of the offer or counter offer;**
- The existence of an offer is not confidential;
- A full-price offer does not obligate seller to accept the offer;
- There is no priority to offers.

2. I'm ready to make an offer. Who can prepare the offer for me?

The listing agent (the seller's agent) or another licensee can perform ministerial acts* for a buyer such as filling in the blanks on the company's purchase and sale agreement

3. Can I ask the listing agent (seller's agent) to tell me if other offers have been submitted to the seller?

You can ask, but the listing agent is not required to answer your question. The listing agent has fiduciary duties to the seller client; the seller client may authorize the agent to inform you of the existence of other offers.

4. Can I ask a licensee for advice about offers I make or receive?

You can ask, but licensee may not provide advice to or counsel a customer.

*****"Ministerial acts" means those acts that a real estate brokerage agency performs for a person who is not a client and that are informative or clerical in nature and do not rise to the level of active representation on behalf of the person.***



Office of Professional & Occupational Regulation

Real Estate Commission
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MEMORANDUM

To: Real Estate Commission Members
From: Catherine E. Pendergast, Director
Date: April 6, 2026
Subject: Proposed Rulemaking – Seller Verification

LD 2182, An Act to Implement a Recommendation of the Commission to Recommend Methods for Preventing Deed Fraud in the State, was considered by the Joint Standing Committee on Housing and Economic Development (HED). That bill would have required rulemaking for seller verification by real estate and closing agents. It was unanimously voted “Ought Not to Pass.”

The basis for the vote, in part, was because the Uniform Law Commission (ULC) had formed a Deed Fraud Study Commission in 2025 to examine the issue and create a uniform law. Some people, who would be affected as closing agents, suggested that legislation should wait until a uniform law is passed. Other reasons for the vote were that the Real Estate Commission already has broad authority over real estate brokerage practice and the authority to conduct rulemaking.

While LD 2182 did not pass, the HUD Committee sent a letter (attached) to the Director of the Office of Professional and Occupational Regulation (OPOR) asking that the rules and standards of practice for real estate agents and brokerage agencies be reviewed to explore and adopt further rule changes to combat deed fraud.

In the spirit of that request, the following draft rule is provided for your discussion to specifically call out the duty of seller identity verification in rule.

SENATE

GLENN "CHIP" CURRY, DISTRICT 11, CHAIR
DONNA BAILEY, DISTRICT 31
RICHARD BENNETT, DISTRICT 18

LYNNE WESTPHAL, LEGISLATIVE ANALYST
SOPHIA PADDON, LEGISLATIVE ANALYST
SANDLIN PREECS, COMMITTEE CLERK



HOUSE

TRACI GERE, KENNEBUNKPORT, CHAIR
CHERYL A. GOLEK, HARPSWELL
MARC G. MALON, II, BIDDEFORD
CASSIE LYNN JULIA, WATERTOWN
YUSUF M. YUSUF, PORTLAND
GRAYSON LOOKNER, PORTLAND
AMANDA N. COLLAMORE, PITTSFIELD
ARTHUR KEVIN MINGO, CALAIS
MARK WALKER, NAPLES
JOHN EDER, WATERBORO

STATE OF MAINE ONE HUNDRED AND THIRTY-SECOND LEGISLATURE JOINT STANDING COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT

March 27, 2026

Penny Vaillancourt
Director, Office of Professional and Occupational Regulation
Department of Professional and Financial Regulation
35 State House Station
Augusta, ME 04332

Dear Director Vaillancourt:

The Joint Standing Committee on Housing and Economic Development recently considered LD 2182, An Act to Implement a Recommendation of the Commission to Recommend Methods for Preventing Deed Fraud in the State. As drafted, the bill proposed to require settlement agents and real estate brokerage agencies to verify the identity of a person who is selling property prior to entering into an agreement with the seller or providing any services to the seller. During the public hearing on the bill, committee members were informed that in January 2025 the Uniform Law Commission (ULC) authorized the formation of a Deed Fraud Study Commission to research and examine the issue of deed fraud and decide whether to recommend that the ULC draft an act to address this issue. In September, the ULC Deed Fraud Study Commission recommended the creation of a uniform law addressing deed fraud, which is currently being drafted and is expected to be completed within the year. As such, opponents of the bill encouraged the committee to vote "Ought Not to Pass" on LD 2182 to provide the Uniform Law Commission time to finalize the model legislation.

During the committee's consideration of the bill, the committee was informed by the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation (OPOR), that settlement agents, real estate brokers and brokerage agencies practicing in the State are subject to existing licensing structures and that the Real Estate Commission, which operates under the jurisdiction of OPOR, has established a minimum standards of practice which, through rulemaking, can be further amended to address deed fraud behaviors.

Ultimately, recognizing OPOR's existing professional regulations and standards, opportunities to strengthen them against deed fraud and the anticipated model legislation from the Uniform Law Commission, the committee voted Ought Not to Pass on LD 2182. To that end, the committee, with the exception of one member, is writing to ask that OPOR review the rules and standards of practice governing settlement agents, real estate brokers and brokerage agencies to explore and adopt further rule changes to combat deed fraud. We also request that during the rulemaking process, OPOR consider any recommendations that may result from the ULC Deed Fraud Study Commission.

If you have any questions, please do not hesitate to contact us or our legislative analyst, Sophia Paddon. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sen. Chip Curry".

Sen. Glenn "Chip" Curry
Senate Chair

A handwritten signature in blue ink, appearing to read "Traci Gere".

Rep. Traci Gere
House Chair

Chapter 410: MINIMUM STANDARDS OF PRACTICE

Summary: This chapter establishes standards for practicing real estate brokerage.

SECTION 1. Advertising

1. Definitions

- A. **Advertise.** “Advertise,” “advertising” and “advertisement” include all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication for any purpose related to real estate brokerage activity, including, at a minimum, advertising the sale or purchase of real estate or promotion of real estate brokerage services conducted by mail, telephone, the internet (including but not limited to the world wide web, electronic mail and social media), business cards, signs, television, radio, magazines, newspapers, and telephonic greetings or answering machine messages.
- B. **Prominent.** “Prominent” means standing out so as to be seen easily; conspicuous; particularly noticeable.

2. Advertising by Real Estate Brokerage Agencies

Real estate brokerage advertisements must contain the agency’s trade name as licensed by the Commission of the real estate brokerage agency that placed the advertisement. If the agency is not licensed with a trade name, the legal name shall be used. The name of the agency must be prominently displayed or presented. In an advertisement that appears on or is sent via the internet, the name of the agency that placed the advertisement must prominently appear or be readily accessible.

The designated broker may authorize an advertisement that includes the name, telephone number, slogan, logotype or photo of an affiliated licensee or group or team of affiliated licensees as part of the brokerage services being offered by the real estate brokerage agency. The affiliated licensee or group or team of affiliated licensees may not independently engage in real estate brokerage.

3. Written Permission of Owner Required to Advertise

A real estate brokerage agency or its affiliated licensees shall not advertise any real estate for sale without first obtaining the written permission of the owner or the owner’s authorized representative.

4. **Advertising of Exclusive Listing Held by Another Agency**

A real estate brokerage agency or its affiliated licensees shall not publish or cause to be published an advertisement that makes reference to the availability of real estate which is exclusively listed for sale by another real estate brokerage agency unless the licensee obtains the prior written consent of the designated broker who has been authorized by the owner to provide consent.

5. **Deception and Misrepresentation Prohibited**

Advertising must be free from deception and shall not misrepresent the condition of the real estate, terms of the sale or purchase, real estate brokerage agency policies, or real estate brokerage services.

SECTION 2. Acting in Self-Interest

1. A licensee holding an active real estate license shall disclose, in the offer to purchase as a buyer, or as part of the property disclosure information as a seller, that the licensee is a real estate licensee:
 - A. When buying or selling real estate not listed with a real estate brokerage agency;
 - B. When buying or selling real estate listed with the licensee's real estate brokerage agency; or
 - C. When buying or selling real estate and sharing in the brokerage fee resulting from the sale of such real estate.

SECTION 3. Market Value

1. **When Opinion Permitted**

A licensee may provide a free opinion of value to a buyer or seller when the licensee is soliciting the buyer or seller to provide brokerage services and before an agreement to provide any services has been reached or executed.

2. **When Advice Prohibited**

At any time after the solicitation to provide brokerage services, as described in Section 3(1) of this chapter, a transaction broker may not provide advice to either party regarding market value.

3. **Provision of Comparable Market Data**

A licensee who provides comparable market data to a buyer or seller for the buyer or seller to determine market value or list price is performing a ministerial act as defined in Title 32, Section 13271, Subsection 9 of the Maine Revised Statutes.

4. Factors or Conditions That May Impact the Client's Interest

A licensee who represents a buyer or seller client shall advise the client of any factors or conditions actually known by the licensee, or if acting in a reasonable manner, should have been known by the licensee, that may materially impact the client's interest as it pertains to the market value of real estate.

SECTION 4. Net Listing Prohibited

A net listing shall be prohibited. A net listing is a type of listing in which the real estate brokerage agency receives, as commission, all excess money over and above the minimum sale price set by the seller.

SECTION 5. Duty to Furnish Real Estate Brokerage-Related Documents

A licensee shall furnish copies of brokerage agreements, offers, counteroffers, and all types of contracts to the person signing the documents at the time of signature. Upon obtaining a written acceptance of an offer or counteroffer to purchase real estate, a licensee shall, within a reasonable time, deliver true, legible copies of the purchase and sale contract, signed by the seller and buyer, to both seller and buyer, or the licensee working with the other party.

SECTION 6. Disclosure of Real Estate Brokerage Agency Compensation Policy

1. Other Agencies

Written brokerage agreements must include a statement disclosing the real estate brokerage agency's policy on cooperating with and compensating other real estate brokerage agencies in the sale or purchase of real estate. If the real estate brokerage agency's policy is to not compensate all other real estate brokerage agencies in the same manner, or not compensate other agencies at all, this policy must be included in the statement.

2. Affiliated Licensees

When a real estate brokerage agency's policy on paying commissions to its affiliated licensees provides for an incentive to an affiliated licensee for a greater commission for an in-house sale versus transactions involving a cooperating real estate brokerage agency, this policy must be disclosed in a written brokerage agreement with a buyer or seller.

SECTION 7. Disclosed Dual Agency

A real estate brokerage agency which has a written company policy that permits disclosed dual agency shall obtain the informed written consent, as set forth in 32 M.R.S. § 13275, of the seller or buyer to the disclosed dual agency relationship at the time of entering into a written brokerage agreement that creates an agent-client relationship.

SECTION 8. Appointed Agent Procedures and Disclosure

1. Designated Broker Responsibilities – Appointed Agent

- A. A designated broker appointing an affiliated licensee(s) to act as an agent of a client shall take ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.
- B. An appointed agent may disclose to the agency's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction. Confidential information shall be treated as such by the designated broker or other specified representative of the broker and shall not be disclosed unless otherwise required by Title 32, Chapter 114 of the Maine Revised Statutes or Commission rules, or requested or permitted by the client who originally disclosed the confidential information.
- C. A designated broker who is appointed to act as the agent of the client must select a designee to fulfill the responsibilities as listed in Section 8(1)(B) of this chapter.

2. Appointed Agent – Disclosure

The appointed agent disclosure shall be provided to the client prior to entering into a written brokerage agreement and shall include, at a minimum, the following provisions:

- A. The name of the appointed agent and type of license held;
- B. A statement that the appointed agent will be the client's agent and will owe the client fiduciary duties which, among other things, include the obligation not to reveal confidential information obtained from the client to other licensees, except to the designated broker or the designated broker's designee, as listed in Section 8(1)(B) of this chapter, for the purpose of seeking advice or assistance for the benefit of the client;
- C. A statement that the real estate brokerage agency may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- D. A statement that other agents may be appointed during the term of the written brokerage agreement should the appointed agent not be able to fulfill the terms of the written brokerage agreement or as by agreement between the designated broker and client. At the appointment of new or additional agent(s), the designated broker must comply with the provisions of this Section, including but not limited to, obtaining the client's signature consenting or not consenting to the appointment. An appointment of another agent as a new or additional agent does not relieve the first appointed agent of any of the fiduciary duties owed to the client; and
- E. A section for the client to consent or not consent, in writing, to the appointment.

SECTION 9. Real Estate Brokerage Relationship Disclosure Procedures

1. Real Estate Brokerage Relationships Form

The Commission incorporates into this chapter by reference the Real Estate Brokerage Relationships Form attached to this chapter. (Real Estate Brokerage Relationships Form revised 07/06).

2. Obligation to Furnish Real Estate Brokerage Relationships Form

Except as provided in Section 9(3) of this chapter, a licensee shall furnish a prospective buyer or seller with a copy of the Real Estate Brokerage Relationships Form when there is substantive communication regarding a real estate transaction by either a face-to-face meeting, a written communication, or an electronic communication with the prospective buyer or seller. The licensee shall discuss the content of the form and ascertain the intent of the buyer or seller regarding representation. The licensee shall complete the statement on the form acknowledging that the prospective buyer or seller has been provided with the information required by Maine law regarding brokerage relationships.

3. Exceptions

A licensee is not required to provide a copy of the Real Estate Brokerage Relationships Form to a prospective buyer or seller in the following instances:

- A. The real estate is land without a residential dwelling unit;
- B. The real estate is land with more than four (4) residential dwelling units;
- C. The licensee is acting solely as a principal in a real estate transaction;
- D. The written communication from the licensee is a solicitation of business; or
- E. The licensee has knowledge, or may reasonably assume, that another licensee has given a copy of the form to a prospective buyer or seller in that transaction.

SECTION 10. Solicitation of Written Brokerage Agreements

A licensee shall not solicit a written brokerage agreement from a seller or buyer if the licensee knows, or acting in a reasonable manner should have known, that the buyer or seller has contracted with another real estate brokerage agency for the same real estate brokerage services on an exclusive basis. This Section does not preclude a real estate brokerage agency from entering into a written brokerage agreement with a seller or buyer, when the initial contact is initiated by the seller or buyer, provided that the written brokerage agreement does not become effective until the expiration or release of the previous written brokerage agreement.

SECTION 11. Inducements

The offering of a free gift, prize, money or other valuable consideration by a real estate brokerage agency or affiliated licensee as an inducement shall be free from deception, and shall not serve to distort the true value of the real estate or the service being promoted. Any limitations or conditions of the offering must be prominently displayed or presented. In an offering that appears on or is sent via the Internet, any limitations or conditions of the offering must prominently appear in the offering itself, or in a page view or window that is directly and immediately accessible via a link in the offering. The link must be identified by words such as "limitations," "conditions," or "terms of offer" and must prominently appear in the offering.

A real estate brokerage agency that claims to make contributions to charities as an inducement must produce to the Director any records related to such contributions upon request.

SECTION 12. Confidentiality of Offers and Purchase and Sale Contract Terms

1. A real estate brokerage agency or affiliated licensees shall not disclose any terms of an offer or counteroffer to anyone other than the parties to the offer or counteroffer without the prior written permission of the parties prior to withdrawal, expiration or written rejection of the offer or counteroffer.

A real estate brokerage agency or affiliated licensees shall not disclose the terms of an executed contract to anyone other than the parties to the agreement without the prior written permission of the parties prior to the transaction closing or terminating.

Buyer names and addresses ~~are not terms of an offer and~~ shall not be disclosed.

2. Notwithstanding the confidentiality provision contained in Section 12(1) of this chapter, any such document referenced in this section shall be made available to the Director of the Commission upon request.

SECTION 13. Licensee's Duty

1. **Keep the Designated Broker Informed**

An affiliated licensee shall keep the designated broker fully informed of all activities conducted on behalf of the agency and shall notify the designated broker of any other activities that might impact on the responsibilities of the designated broker as set forth in Chapter 400, Section 1 of the Commission's rules, including that an affiliated licensee has terminated affiliation with the agency.

2. **Provide Documents to Designated Broker**

An affiliated licensee must provide originals or true copies of all real estate brokerage documents and records prepared in a real estate transaction as listed in Chapter 400, Section 4 of the Commission's rules to the designated broker within five (5) calendar days after execution of the document or record.

3. Internet Sites

An affiliated licensee may not directly or indirectly, independently or through others develop and upload an internet site that promotes real estate brokerage services or the sale or purchase of real estate through the agency with whom the licensee is affiliated without the consent of the designated broker.

Any internet site developed or uploaded under this Section must comply with the advertising requirements set forth in Chapter 410, Section 1 of the Commission's rules.

4. Seller Verification

An affiliated licensee shall take reasonable steps to verify the identity of a seller and the seller's legal authority to transfer a property prior to entering into a brokerage agreement or providing real estate brokerage services in a real estate transaction.

Steps taken to verify seller identity should be reflective of the transaction-specific risks for seller impersonation which may be higher in certain situations including, but not limited to, transactions involving a nonresident seller or unimproved land.

OR

The steps taken to verify must be appropriate to the risk of seller impersonation in the transaction. Increased diligence should be applied in higher risk situations, including, but not limited to transactions involving non-resident sellers or unimproved land.

SECTION 14. Licensee's Duty to Obtain and Provide Disclosure Information on Private Water Supply, Heating, Waste Disposal System, Known Hazardous Materials, Potential Flood Risks and Access to Property

All licensees have a duty to obtain and provide disclosure information on private water supply, heating, waste disposal system, known hazardous materials, potential flood risks, and access to property regardless of their relationship with buyer or seller. Forms used by an agency to provide property disclosure information shall be filled out completely.

1. Listing Licensee

A listing licensee shall be responsible for obtaining information necessary to make disclosures, as set forth in Sections 15 to 20 of this chapter, to buyers and shall make a reasonable effort to assure that the information is conveyed to a selling licensee.

2. Selling Licensee

A selling licensee shall be responsible for obtaining from the listing licensee the information necessary for making written property disclosures, as set forth in Sections 15 to 20 of this chapter, and for assuring that the disclosures are made to buyers.

3. Unlisted Property

In a real estate brokerage transaction where the property is not listed with a real estate brokerage agency, a licensee shall be responsible for obtaining from the seller or other

sources to the extent possible the information necessary for making written property disclosures, as set forth in Sections 15 to 20 of this chapter, and for assuring that the disclosures are made to the buyer.

SECTION 15. Private Water Supply Disclosure

A licensee listing a single-family residential property, a multifamily property, a residential lot or a commercial property with a residential component served by a private water supply, and a licensee in such transactions when the property is not listed with a real estate brokerage agency, shall ask the seller for the following information:

1. Type of system;
2. Location;
3. Malfunctions;
4. Date of installation;
5. Date of most recent water test; and
6. Whether or not the seller has experienced a problem such as an unsatisfactory water test or a water test with notations.

Such information and any other information obtained through different sources and means pertinent to the private water supply shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding the private water supply is not available shall also be conveyed, in writing, when such is the case.

SECTION 16. Heating Disclosure

A licensee listing a single-family residential property, a multifamily property or a commercial property with a residential component, and a licensee in such transactions when the property is not listed with a real estate brokerage agency, shall ask the seller for the following information regarding the heating system(s) and/or source(s):

1. Type(s);
2. Age of system/source(s);
3. Name of company who services system/source(s);
4. Date of most recent service call;
5. Annual consumption per system/source (*i.e.*, gallons, kilowatt hours, cords);
6. Malfunctions per system/source within the past 2 years; and
7. Date of most recent inspection of any chimneys and any vents for the heating system or source.

Such information and any other information obtained through different sources and means pertinent to the heating system(s) and/or source(s) shall be conveyed, in writing, to a buyer prior to or during the preparation of an offer. The fact that information pertinent to the heating system(s) and/or source(s) is not available shall be conveyed, in writing, when such is the case.

SECTION 17. Waste Disposal System Disclosure

1. Private Waste Disposal System

A licensee listing a single-family residential property, a multifamily property, a residential lot or a commercial property with a residential component served by a private waste disposal system, and a licensee in such transactions when the property is not listed with a real estate brokerage agency, shall ask the seller for the following information:

- A. Type of system;
- B. Size of tank;
- C. Type of tank;
- D. Location of tank;
- E. Malfunctions of tank;
- F. Date of installation of tank;
- G. Location of leach field;
- H. Malfunctions of leach field;
- I. Date of installation of leach field;
- J. Date of most recent servicing of system; and
- K. Name of the contractor who services the system.

Such information and any other information obtained through different sources and means pertinent to the waste disposal system shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding the waste disposal system is not available shall also be conveyed, in writing, when such is the case.

2. Municipal or Quasi-Public Waste Disposal System

A licensee listing a single-family residential property, a multifamily property, a residential lot or a commercial property with a residential component served by a municipal or quasi-public waste disposal system, and a licensee in such transactions when the property is not listed with a real estate brokerage agency, shall ask the seller if the seller has experienced any system or line malfunction. This information shall be conveyed, in writing, to a buyer prior to or during the preparation of an offer.

SECTION 18. Known Hazardous Materials Disclosure

1. **Duty to Keep Informed**

A licensee shall keep informed of any federal, state or local laws, rules, regulations or ordinances concerning known hazardous materials that may impact negatively upon the health and well-being of buyers and sellers.

2. **Duty to Disclose**

A listing licensee, and a licensee in transactions when the property is not listed with a real estate brokerage agency, shall disclose, in writing, whether the seller makes any representations regarding current or previously existing known hazardous materials on or in the real estate. In addition, the licensee shall give a written statement to the buyer encouraging the buyer to seek information from professionals regarding any specific hazardous material issue or concern. Such written representation and statement shall be conveyed to a buyer prior to or during the preparation of an offer.

3. **Request for Information from Seller**

A licensee listing a single-family residential property, a multifamily property, a commercial property with a residential component and a licensee in such transactions when the property is not listed with a real estate brokerage agency, shall ask the seller whether the seller has any knowledge of the presence of or prior removal of hazardous materials or elements on the property, including, but not limited to asbestos, radon, lead-based paint, underground storage tanks and methamphetamine. Such information and any other information obtained through different sources and means pertinent to hazardous materials shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding hazardous materials is not available shall also be conveyed, in writing, when such is the case.

SECTION 19. Flood Risk Disclosure

1. **Duty to Disclose**

A licensee listing for sale real property, and a licensee in transactions when the real property is not listed with a real estate brokerage agency, shall convey to a buyer prior to or during the preparation of an offer, information regarding potential flood risks, including:

- A. Whether, at the time the seller provides the information to the purchaser, the property is located wholly or partly within an area of special flood hazard mapped on the effective flood insurance rate map issued by the Federal Emergency Management Agency on or after March 4, 2002; the federally designated flood zone for the property indicated on that flood insurance rate map; and a copy of the relevant panel of that flood insurance rate map.

For the purposes of this paragraph, "area of special flood hazard" means land in a floodplain having a 1% or greater chance of flooding in any given year, as identified in the effective federal flood insurance study and corresponding flood insurance rate maps.

- B. Whether, during the time that the prospective seller has owned the property:

- (1) Any flood events affected the property or a structure on the property;
- (2) Any flood-related damage to a structure occurred on the property;
- (3) Any flood insurance claims were filed for a structure on the property and, if so, the date of each claim; and
- (4) Any past disaster-related aid was provided related to the property or a structure on the property from federal, state or local sources for the purposes of flood recovery and, if so, the date of each payment; and

C. For the purposes of this subsection, "flood" means:

- (1) A general and temporary condition of partial or complete inundation of normally dry areas from:
 - (a) The overflow of inland or tidal waters; or
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as described in subparagraph (1), division (a).

Such information and any other information obtained through different sources and means pertinent to flood risk shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding flood risk is not available shall also be conveyed, in writing, when such is the case.

SECTION 20. Access to Property

A licensee listing for sale real property, and a licensee in transactions when the residential real property is not listed with a real estate brokerage agency, shall ask the seller for information describing the means of accessing the property by:

1. A public way, as defined in Title 29-A, section 101; and
2. Any means other than a public way, in which case the seller shall disclose information about who is responsible for maintenance of the means of access, including any responsible road association.

Such information and any other information obtained through different sources and means pertinent to access to the property shall be conveyed, in writing, to a buyer prior to or during preparation of an offer. The fact that information regarding access to the property is not available shall also be conveyed, in writing, when such is the case.

SECTION 21. Referral Fees

1. Certain Referral Fees Prohibited

A licensee may not receive compensation or other valuable consideration from a title company, lender or closing company or any affiliated employee for directing a buyer or seller in a real estate transaction to a company or an individual for financing, title or closing services.

2. Disclosure of Certain Referral Fees Required

A licensee who anticipates receiving compensation or other valuable consideration from a company or person for a referral of services, other than the services listed in Section 21(1) of this chapter or real estate brokerage services, to a buyer or seller during a real estate brokerage transaction may not accept such compensation or valuable consideration unless the licensee discloses in writing to the person paying for such service, and to the client if not the same person, that the licensee anticipates receiving such compensation or other valuable compensation for such referral.

[APA Office Note: the Real Estate Brokerage Relationships Form is a separate file in Adobe .pdf format.]

STATUTORY AUTHORITY: 32 M.R.S. §§ 13065(3), 13271, 13272, 13273, 13274, 13275, 13277, 13278, 13279, 13280; 33 M.R.S. §§ 173, 193

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