



Ohio Revised Code

Section 4735.72 Dual agency - brokerage and management level licensees.

Effective: January 1, 2005

Legislation: Senate Bill 106 - 125th General Assembly

(A) The brokerage and management level licensees in a brokerage in which there is a dual agency relationship described in section 4735.70 of the Revised Code shall do each of the following:

(1) Objectively supervise the affiliated licensees in the fulfillment of their duties and obligations to their respective clients;

(2) Refrain from advocating or negotiating on behalf of either the seller or the purchaser;

(3) Refrain from disclosing to any other employee of the brokerage or any party or client, any confidential information of a client of which the brokerage or management level licensee becomes aware and from utilizing or allowing to be utilized for the benefit of another client, any confidential information obtained from a client.

(B) When two licensees affiliated with the same brokerage represent separate clients in the same transaction, each affiliated licensee shall do both of the following:

(1) Serve as the agent of only the party in the transaction the licensee agreed to represent;

(2) Fulfill the duties owed to the respective client as set forth in this chapter and as agreed in the agency agreement.

(C)(1) In all cases, a management level licensee shall keep information of the client or brokerage confidential.

(2) Nothing in this section prohibits the brokerage or management level licensees in the brokerage from providing factual, nonconfidential information that presents or suggests objective options or solutions, or assisting the parties in an unbiased manner to negotiate or fulfill the terms of the purchase contract or lease, provided that confidential information of a client is not utilized in any



manner in formulating such suggestions or providing this assistance.

(D) No cause of action shall arise on behalf of any person against a licensee in a dual agency relationship for making disclosures to the parties that are permitted or required by this chapter or that have been made on the agency disclosure statement. Making permitted disclosures does not terminate any agency relationship between a licensee and a client.

(E)(1) If a brokerage determines that confidential information of one client in a dual agency relationship has become known to any licensee employed by or affiliated with the brokerage who is representing the other client in the dual agency relationship, as a result of the failure of the brokerage, its licensees, or its employees to maintain such confidentiality, the brokerage shall do both of the following:

(a) Notify both clients of the fact immediately in writing;

(b) Offer to resign representation of both clients.

(2) If either client elects to accept the resignation, the brokerage shall not be entitled to any compensation from that client. If either client does not accept the resignation, the brokerage may continue to represent that client.

(3) A licensee who obtains confidential information concerning another client of the brokerage in a dual agency relationship shall not, under any circumstances, disclose that information to or use that information for the benefit of the licensee's client.

(F) A client of a brokerage who is involved in a dual agency relationship may bring an individual action against a brokerage and any licensee who has failed to comply with the procedure described in division (B)(1) of section 4735.71 of the Revised Code to recover actual damages and to rescind an agency agreement with the brokerage.