

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2116

(SENATE AUTHORS: JENSEN, Gazelka, Metzen, Housley and Ruud)

DATE	D-PG	OFFICIAL STATUS
03/03/2014	5913	Introduction and first reading Referred to Commerce

1.1 A bill for an act
 1.2 relating to commerce; allowing for designated agency in real estate transactions;
 1.3 amending Minnesota Statutes 2012, sections 82.55, by adding a subdivision;
 1.4 82.66, subdivisions 1, 2; 82.67, subdivisions 3, 4; 82.73, subdivision 3, by
 1.5 adding subdivisions.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2012, section 82.55, is amended by adding a subdivision
 1.8 to read:

1.9 Subd. 5a. **Designated agency.** "Designated agency" occurs when two or more real
 1.10 estate salespersons, licensed to the same broker, each represent a party to the transaction.
 1.11 Designated agency involves the selection and designation of one or more real estate
 1.12 salespersons in a brokerage to represent only the interests of the seller and one or more
 1.13 different real estate salespersons in the brokerage to represent only the interests of the buyer.

1.14 Sec. 2. Minnesota Statutes 2012, section 82.66, subdivision 1, is amended to read:

1.15 Subdivision 1. **Listing agreements.** (a) **Requirement.** Licensees shall obtain
 1.16 a signed listing agreement or other signed written authorization from the owner of real
 1.17 property or from another person authorized to offer the property for sale or lease before
 1.18 advertising to the general public that the real property is available for sale or lease.

1.19 For the purposes of this section "advertising" includes placing a sign on the owner's
 1.20 property that indicates that the property is being offered for sale or lease.

1.21 (b) **Contents.** All listing agreements must be in writing and must include:

- 1.22 (1) a definite expiration date;
- 1.23 (2) a description of the real property involved;
- 1.24 (3) the list price and any terms required by the seller;

2.1 (4) the amount of any compensation or commission or the basis for computing
2.2 the commission;

2.3 (5) a clear statement explaining the events or conditions that will entitle a broker to
2.4 a commission;

2.5 (6) a clear statement explaining if the agreement may be canceled and the terms
2.6 under which the agreement may be canceled;

2.7 (7) information regarding an override clause, if applicable, including a statement
2.8 to the effect that the override clause will not be effective unless the licensee supplies the
2.9 seller with a protective list within 72 hours after the expiration of the listing agreement;

2.10 (8) the following notice in not less than ten-point boldface type immediately
2.11 preceding any provision of the listing agreement relating to compensation of the licensee:

2.12 "NOTICE: THE COMPENSATION FOR THE SALE, LEASE, RENTAL, OR
2.13 MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN
2.14 EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

2.15 (9) for residential property listings, the following "dual agency" disclosure statement:

2.16 If a buyer represented by broker wishes to buy the seller's property, a dual agency
2.17 will be created. This means that broker will represent both the seller(s) and the buyer(s),
2.18 and owe the same duties to the buyer(s) that broker owes to the seller(s). This conflict
2.19 of interest will prohibit broker from advocating exclusively on the seller's behalf. Dual
2.20 agency will limit the level of representation broker can provide. If a dual agency should
2.21 arise, the seller(s) will need to agree that confidential information about price, terms, and
2.22 motivation will still be kept confidential unless the seller(s) instruct broker in writing to
2.23 disclose specific information about the seller(s). All other information will be shared.
2.24 Broker cannot act as a dual agent unless both the seller(s) and the buyer(s) agree to it. By
2.25 agreeing to a possible dual agency, the seller(s) will be giving up the right to exclusive
2.26 representation in an in-house transaction. However, if the seller(s) should decide not to
2.27 agree to a possible dual agency, and the seller(s) want broker to represent the seller(s), the
2.28 seller(s) may give up the opportunity to sell the property to buyers represented by broker.

2.29 Seller's Instructions to Broker

2.30 Having read and understood this information about dual agency, seller(s) now
2.31 instructs broker as follows:

2.32 Seller(s) will agree to a dual agency representation and will consider
2.33 offers made by buyers represented by broker.

2.34 Seller(s) will not agree to a dual agency representation and will not
2.35 consider offers made by buyers represented by broker.

2.36
2.37 Seller Real Estate Company Name

3.1 By:

3.2 Seller Salesperson

3.3 Date :

3.4 (10) for residential property listings, the following "designated agency" disclosure

3.5 statement:

3.6 If seller(s) has agreed to dual agency, a designated agency relationship may also be

3.7 created. With consent of seller(s), exclusive representation will be provided to the seller(s)

3.8 through the undersigned salesperson(s) designated by broker to represent the seller(s).

3.9 Exclusive representation may also be provided to the buyer(s) through salesperson(s)

3.10 designated by broker. However, broker will represent both the seller(s) and the buyer(s)

3.11 and owe the same duties to each as stated in the dual agency section of this agreement.

3.12 Broker cannot designate salesperson(s) to act as designated agents unless both seller(s)

3.13 and buyer(s) agree.

3.14 Seller's Instruction to Broker

3.15 Having read and understood this information about designated agency, seller(s)

3.16 now instructs broker as follows:

3.17 Seller(s) will agree to designated agency representation.

3.18 Seller(s) will not agree to designated agency representation.

3.19

3.20 Seller Real Estate Company Name

3.21 By:

3.22 Seller Salesperson

3.23 Date:

3.24 ~~(10)~~ (11) a notice requiring the seller to indicate in writing whether it is acceptable to

3.25 the seller to have the licensee arrange for closing services or whether the seller wishes to

3.26 arrange for others to conduct the closing; and

3.27 ~~(11)~~ (12) for residential listings, a notice stating that after the expiration of the

3.28 listing agreement, the seller will not be obligated to pay the licensee a fee or commission

3.29 if the seller has executed another valid listing agreement pursuant to which the seller is

3.30 obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of

3.31 the real property in question. This notice may be used in the listing agreement for any

3.32 other type of real estate.

3.33 (c) **Prohibited provisions.** Except as otherwise provided in paragraph (d), clause

3.34 (2), licensees shall not include in a listing agreement a holdover clause, automatic

3.35 extension, or any similar provision, or an override clause the length of which is more than

3.36 six months after the expiration of the listing agreement.

4.1 (d) **Override clauses.** (1) Licensees shall not seek to enforce an override clause
4.2 unless a protective list has been furnished to the seller within 72 hours after the expiration
4.3 of the listing agreement.

4.4 (2) A listing agreement may contain an override clause of up to two years in length
4.5 when used in conjunction with the purchase or sale of a business. The length of the
4.6 override clause must be negotiable between the licensee and the seller of the business. The
4.7 protective list provided in connection with the override clause must include the written
4.8 acknowledgment of each party named on the protective list, that the business which is the
4.9 subject of the listing agreement was presented to that party by the licensee.

4.10 (e) **Protective lists.** A broker or salesperson has the burden of demonstrating that
4.11 each person on the protective list has, during the period of the listing agreement, either
4.12 made an affirmative showing of interest in the property by responding to an advertisement
4.13 or by contacting the broker or salesperson involved or has been physically shown the
4.14 property by the broker or salesperson. For the purpose of this section, the mere mailing or
4.15 other distribution by a licensee of literature setting forth information about the property in
4.16 question does not, of itself, constitute an affirmative showing of interest in the property on
4.17 the part of a subsequent purchaser.

4.18 For listings of nonresidential real property which do not contain the notice described
4.19 in paragraph (b), clause (11), the protective list must contain the following notice in
4.20 boldface type:

4.21 "IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE
4.22 PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME
4.23 APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS
4.24 TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK
4.25 COMPETENT ADVICE."

4.26 Sec. 3. Minnesota Statutes 2012, section 82.66, subdivision 2, is amended to read:

4.27 Subd. 2. **Buyer's broker agreements.** (a) **Requirements.** Licensees shall obtain a
4.28 signed buyer's broker agreement from a buyer before performing any acts as a buyer's
4.29 representative and before a purchase agreement is signed.

4.30 (b) **Contents.** All buyer's broker agreements must be in writing and must include:

4.31 (1) a definite expiration date;

4.32 (2) the amount of any compensation or commission, or the basis for computing
4.33 the commission;

5.1 (3) a clear statement explaining the services to be provided to the buyer by the
5.2 broker, and the events or conditions that will entitle a broker to a commission or other
5.3 compensation;

5.4 (4) a clear statement explaining if the agreement may be canceled and the terms
5.5 under which the agreement may be canceled;

5.6 (5) information regarding an override clause, if applicable, including a statement to
5.7 the effect that the override clause will not be effective unless the licensee supplies the buyer
5.8 with a protective list within 72 hours after the expiration of the buyer's broker agreement;

5.9 (6) the following notice in not less than ten-point boldface type immediately
5.10 preceding any provision of the buyer's broker agreement relating to compensation of the
5.11 licensee:

5.12 "NOTICE: THE COMPENSATION FOR THE PURCHASE, LEASE, RENTAL,
5.13 OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN
5.14 EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

5.15 (7) the following "dual agency" disclosure statement:

5.16 If the buyer(s) choose(s) to purchase a property listed by broker, a dual agency will
5.17 be created. This means that broker will represent both the buyer(s) and the seller(s),
5.18 and owe the same duties to the seller(s) that broker owes to the buyer(s). This conflict
5.19 of interest will prohibit broker from advocating exclusively on the buyer's behalf. Dual
5.20 agency will limit the level of representation broker can provide. If a dual agency should
5.21 arise, the buyer(s) will need to agree that confidential information about price, terms, and
5.22 motivation will still be kept confidential unless the buyer(s) instruct broker in writing to
5.23 disclose specific information about the buyer(s). All other information will be shared.
5.24 Broker cannot act as a dual agent unless both the buyer(s) and the seller(s) agree to it. By
5.25 agreeing to a possible dual agency, the buyer(s) will be giving up the right to exclusive
5.26 representation in an in-house transaction. However, if the buyer(s) should decide not to
5.27 agree to a possible dual agency, and the buyer(s) want(s) broker to represent the buyer(s),
5.28 the buyer(s) may give up the opportunity to purchase the properties listed by broker.

5.29 Buyer's Instructions to Broker

5.30 Buyer(s) will agree to a dual agency representation and will consider
5.31 properties listed by broker.

5.32 Buyer(s) will not agree to a dual agency representation and will not
5.33 consider properties listed by broker.

5.34
5.35 Buyer Real Estate Company Name

5.36 By:

6.1 Buyer Salesperson

6.2 Date: ; and

6.3 (8) for residential property listings, the following "designated agency" disclosure
6.4 statement:

6.5 If buyer(s) has agreed to dual agency, a designated agency relationship may also
6.6 be created. With consent of buyer(s), exclusive representation will be provided to the
6.7 buyer(s) through the undersigned salesperson(s) designated by broker to represent
6.8 the buyer(s). Exclusive representation may also be provided to the seller(s) through
6.9 salesperson(s) designated by broker. However, broker will represent both the buyer(s)
6.10 and the seller(s) and owe the same duties to each as stated in the dual agency section of
6.11 this agreement. Broker cannot designate salesperson(s) to act as designated agents unless
6.12 both buyer(s) and seller(s) agree.

6.13 Buyer's Instruction to Broker

6.14 Having read and understood this information about designated agency, buyer(s)
6.15 now instructs brokers as follows:

6.16 Buyer(s) will agree to designated agency representation.

6.17 Buyer(s) will not agree to designated agency representation.

6.18

6.19 Seller Real Estate Company Name

6.20 By:

6.21 Seller Salesperson

6.22 Date: ;

6.23 ~~(8)~~ (9) for buyer's broker agreements which involve residential real property, a
6.24 notice stating that after the expiration of the buyer's broker agreement, the buyer will not
6.25 be obligated to pay the licensee a fee or commission if the buyer has executed another
6.26 valid buyer's broker agreement pursuant to which the buyer is obligated to pay a fee or
6.27 commission to another licensee for the purchase, lease, or exchange of real property.

6.28 (c) **Prohibited provisions.** Licensees shall not include in a buyer's broker agreement
6.29 a holdover clause, automatic extension, or any other similar provision, or an override
6.30 clause the length of which is more than six months after the expiration of the buyer's
6.31 broker agreement.

6.32 (d) **Override clauses.** Licensees shall not seek to enforce an override clause unless
6.33 a protective list has been furnished to the buyer within 72 hours after the expiration of the
6.34 buyer's broker agreement.

7.1 (e) **Protective lists.** A licensee has the burden of demonstrating that each property
 7.2 on the protective list has been shown to the buyer, or specifically brought to the attention
 7.3 of the buyer, during the time the buyer's broker agreement was in effect.

7.4 (f) **Application.** This section applies only to residential real property transactions.

7.5 Sec. 4. Minnesota Statutes 2012, section 82.67, subdivision 3, is amended to read:

7.6 Subd. 3. **Agency disclosure form.** The agency disclosure form shall be in
 7.7 substantially the form set forth below:

7.8 **AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS**

7.9 **Minnesota law requires** that early in any relationship, real estate brokers or salespersons
 7.10 discuss with consumers what type of agency representation or relationship they desire.(1)
 7.11 The available options are listed below. This is **not** a contract. **This is an agency**
 7.12 **disclosure form only. If you desire representation, you must enter into a written**
 7.13 **contract according to state law** (a listing contract or a buyer representation contract).
 7.14 Until such time as you choose to enter into a written contract for representation, you
 7.15 will be treated as a customer and will not receive any representation from the broker or
 7.16 salesperson. The broker or salesperson will be acting as a Facilitator (see paragraph V
 7.17 below), unless the broker or salesperson is representing another party as described below.

7.18 **ACKNOWLEDGMENT:** I/We acknowledge that I/We have been presented with the
 7.19 below-described options. I/We understand that until I/We have signed a representation
 7.20 contract, I/We are not represented by the broker/salesperson. I/We understand that written
 7.21 consent is required for a dual agency relationship. **THIS IS A DISCLOSURE ONLY, NOT**
 7.22 **A CONTRACT FOR REPRESENTATION.**

7.23	.....	.....
7.24	Signature	Date
7.25	.....	.....
7.26	Signature	Date

7.27 **I.**

7.28 **Seller's Broker:** A broker who lists a property, or a salesperson who is licensed to
 7.29 the listing broker, represents the Seller and acts on behalf of the Seller. A Seller's
 7.30 broker owes to the Seller the fiduciary duties described below.(2) The broker
 7.31 must also disclose to the Buyer material facts as defined in Minnesota Statutes,
 7.32 section 82.68, subdivision 3, of which the broker is aware that could adversely and
 7.33 significantly affect the Buyer's use or enjoyment of the property. If a broker or
 7.34 salesperson working with a Buyer as a customer is representing the Seller, he or
 7.35 she must act in the Seller's best interest and must tell the Seller any information

8.1 disclosed to him or her, except confidential information acquired in a facilitator
 8.2 relationship (see paragraph V below). In that case, the Buyer will not be represented
 8.3 and will not receive advice and counsel from the broker or salesperson.

8.4 II.

8.5 ~~**Subagent:** A broker or salesperson who is working with a Buyer but represents the~~
 8.6 ~~Seller. In this case, the Buyer is the broker's customer and is not represented by that~~
 8.7 ~~broker. If a broker or salesperson working with a Buyer as a customer is representing~~
 8.8 ~~the Seller, he or she must act in the Seller's best interest and must tell the Seller~~
 8.9 ~~any information that is disclosed to him or her. In that case, the Buyer will not be~~
 8.10 ~~represented and will not receive advice and counsel from the broker or salesperson.~~

8.11 III.

8.12 **Buyer's Broker:** A Buyer may enter into an agreement for the broker or salesperson
 8.13 to represent and act on behalf of the Buyer. The broker may represent the Buyer
 8.14 only, and not the Seller, even if he or she is being paid in whole or in part by the
 8.15 Seller. A Buyer's broker owes to the Buyer the fiduciary duties described below.(2)
 8.16 The broker must disclose to the Buyer material facts as defined in Minnesota
 8.17 Statutes, section 82.68, subdivision 3, of which the broker is aware that could
 8.18 adversely and significantly affect the Buyer's use or enjoyment of the property. If
 8.19 a broker or salesperson working with a Seller as a customer is representing the
 8.20 Buyer, he or she must act in the Buyer's best interest and must tell the Buyer any
 8.21 information disclosed to him or her, except confidential information acquired in a
 8.22 facilitator relationship (see paragraph V below). In that case, the Seller will not be
 8.23 represented and will not receive advice and counsel from the broker or salesperson.

8.24 ~~IV.~~ III.

8.25 **Dual Agency-Broker Representing both Seller and Buyer:** Dual agency occurs
 8.26 when one broker or salesperson represents both parties to a transaction, or when two
 8.27 salespersons licensed to the same broker each represent a party to the transaction.
 8.28 Dual agency requires the informed consent of all parties, and means that the broker
 8.29 and salesperson owe the same duties to the Seller and the Buyer. This role limits the
 8.30 level of representation the broker and salespersons can provide, and prohibits them
 8.31 from acting exclusively for either party. In a dual agency, confidential information
 8.32 about price, terms, and motivation for pursuing a transaction will be kept confidential
 8.33 unless one party instructs the broker or salesperson in writing to disclose specific
 8.34 information about him or her. Other information will be shared. Dual agents may
 8.35 not advocate for one party to the detriment of the other.(3)

9.1 Within the limitations described above, dual agents owe to both Seller and Buyer the
 9.2 fiduciary duties described below.(2) Dual agents must disclose to Buyers material
 9.3 facts as defined in Minnesota Statutes, section 82.68, subdivision 3, of which the
 9.4 broker is aware that could adversely and significantly affect the Buyer's use or
 9.5 enjoyment of the property.

9.6 IV.

9.7 **Designated Agency:** Designated agency occurs when a broker represents both
 9.8 parties to a transaction, and, by written agreement of the parties, designates one or
 9.9 more salespersons associated with the broker to represent only the interests of the
 9.10 Seller and one or more salespersons associated with the broker to represent only the
 9.11 interests of the Buyer.

9.12 A licensee responsible for the supervision of other licensees is prohibited from
 9.13 acting as a designated agent for a party in a real estate transaction when a salesperson
 9.14 subject to that licensee's supervision is acting as a designated agent for the other
 9.15 party. When a broker designates salesperson(s) to represent a Seller or Buyer, the
 9.16 salesperson(s) so designated shall represent only the interest of that respective party
 9.17 and shall not, without that party's permission, disclose to the other party or a licensee
 9.18 designated to represent the other party the following information:

9.19 (1) Seller may agree to a price, terms, or any conditions of sale other than those
 9.20 established by the Seller, or, that the Buyer may agree to a price, terms, or any
 9.21 conditions of sale other than those established by the Buyer;

9.22 (2) Seller's motivation for engaging in the transaction, unless disclosure is otherwise
 9.23 required by statute or rule, or, the Buyer's motivation for engaging in the transaction,
 9.24 unless disclosure is otherwise required by statute or rule; and

9.25 (3) any information about Seller that the Seller has identified as confidential,
 9.26 unless disclosure of the information is otherwise required by statute or rule, or, any
 9.27 information about the Buyer that the Buyer has identified as confidential, unless
 9.28 disclosure of the information is otherwise required by statute or rule.

9.29 V.

9.30 **Facilitator:** A broker or salesperson who performs services for a Buyer, a Seller, or
 9.31 both but does not represent either in a fiduciary capacity as a Buyer's Broker, Seller's
 9.32 Broker, or Dual Agent. **THE FACILITATOR BROKER OR SALESPERSON**
 9.33 **DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED**
 9.34 **BELOW, EXCEPT CONFIDENTIALITY, UNLESS THOSE DUTIES ARE**
 9.35 **INCLUDED IN A WRITTEN FACILITATOR SERVICES AGREEMENT.** The
 9.36 facilitator broker or salesperson owes the duty of confidentiality to the party but

10.1 owes no other duty to the party except those duties required by law or contained in
 10.2 a written facilitator services agreement, if any. In the event a facilitator broker or
 10.3 salesperson, working with a Buyer, shows a property listed by the facilitator broker
 10.4 or salesperson, then the facilitator broker or salesperson must act as a Seller's Broker
 10.5 (see paragraph I above). In the event a facilitator broker or salesperson, working
 10.6 with a Seller, accepts a showing of the property by a Buyer being represented by the
 10.7 facilitator broker or salesperson, then the facilitator broker or salesperson must act
 10.8 as a Buyer's Broker (see paragraph III above).

10.9 *****

10.10 (1) This disclosure is required by law in any transaction involving property occupied
 10.11 or intended to be occupied by one to four families as their residence.

10.12 (2) The fiduciary duties mentioned above are listed below and have the following
 10.13 meanings:

10.14 Loyalty-broker/salesperson will act only in client(s)' best interest.

10.15 Obedience-broker/salesperson will carry out all client(s)' lawful instructions.

10.16 Disclosure-broker/salesperson will disclose to client(s) all material facts of which
 10.17 broker/salesperson has knowledge which might reasonably affect the client's use and
 10.18 enjoyment of the property.

10.19 Confidentiality-broker/salesperson will keep client(s)' confidences unless required
 10.20 by law to disclose specific information (such as disclosure of material facts to Buyers).

10.21 Reasonable Care-broker/salesperson will use reasonable care in performing duties as
 10.22 an agent.

10.23 Accounting-broker/salesperson will account to client(s) for all client(s)' money
 10.24 and property received as agent.

10.25 (3) If Seller(s) decides not to agree to a dual agency relationship, Seller(s) may give
 10.26 up the opportunity to sell the property to Buyers represented by the broker/salesperson.
 10.27 If Buyer(s) decides not to agree to a dual agency relationship, Buyer(s) may give up the
 10.28 opportunity to purchase properties listed by the broker.

10.29 Sec. 5. Minnesota Statutes 2012, section 82.67, subdivision 4, is amended to read:

10.30 Subd. 4. **Creation of dual agency and designated agency**. If circumstances
 10.31 create a dual agency situation, the broker must make full disclosure to all parties to the
 10.32 transaction as to the change in relationship of the parties to the broker due to dual agency.
 10.33 A broker, having made full disclosure, must obtain the consent of all parties to these
 10.34 circumstances in residential real property transactions in the purchase agreement in the
 10.35 form set forth below which shall be set off in a boxed format to draw attention to it:

11.1 Broker represents both the seller(s) and the buyer(s) of the property involved in this
 11.2 transaction, which creates a dual agency. This means that broker and its salespersons owe
 11.3 fiduciary duties to both seller(s) and buyer(s). Because the parties may have conflicting
 11.4 interests, broker and its salespersons are prohibited from advocating exclusively for either
 11.5 party. Broker cannot act as a dual agent in this transaction without the consent of both
 11.6 seller(s) and buyer(s).

11.7 If circumstances create a designated agency situation, the broker must make full
 11.8 disclosure to all parties to the transaction as to the change in the relationship of the parties
 11.9 to the broker and to the broker's real estate salesperson(s) due to designated agency.

11.10 A broker, having made full disclosure, must obtain the consent of all parties to these
 11.11 circumstances in residential real property transactions in the purchase agreement in the
 11.12 form set forth below, which shall be set off in a boxed format to draw attention to it.

11.13 Broker, through separate designated salesperson(s), represents both the seller(s)
 11.14 and the buyer(s) of the property involved in this transaction, which creates a designated
 11.15 agency. Under designated agency, each party is represented by a different real estate
 11.16 salesperson licensed to the broker and receives services from that salesperson. At the same
 11.17 time, broker represents both parties and owes each party the same duties stated in the dual
 11.18 agency section of this purchase agreement.

11.19 Seller(s) and buyer(s) acknowledge that:

11.20 (1) confidential information communicated to broker which regards price, terms, or
 11.21 motivation to buy or sell will remain confidential unless seller(s) or buyer(s) instruct(s)
 11.22 broker in writing to disclose this information. Other information will be shared;

11.23 (2) in a dual agency situation, broker and its salespersons will not represent the
 11.24 interests of either party to the detriment of the other; and

11.25 (3) within the limits of dual agency, broker and its salespersons will work diligently
 11.26 to facilitate the mechanics of the sale; and

11.27 (4) in a designated agency situation, seller(s) and buyer(s) will be exclusively
 11.28 represented by separate salesperson(s) licensed to the broker.

11.29 With the knowledge and understanding of the explanation above, seller(s) and
 11.30 buyer(s) authorize(s) and instruct(s) broker and its salespersons to act as dual agents
 11.31 in this transaction.

11.32	.....	.....
11.33	Seller	Buyer
11.34	.....	.....
11.35	Seller	Buyer
11.36	.....	.....
11.37	Date	Date

12.1 With the knowledge and understanding of the explanation above, seller(s) and
 12.2 buyer(s) authorize(s) and instruct(s) broker and its salespersons to act as dual agents
 12.3 in this transaction.

12.4	.....	.....
12.5	<u>Seller</u>	<u>Buyer</u>
12.6	.....	.....
12.7	<u>Seller</u>	<u>Buyer</u>
12.8	.....	.....
12.9	<u>Date</u>	<u>Date</u>

12.10 Sec. 6. Minnesota Statutes 2012, section 82.73, subdivision 3, is amended to read:

12.11 Subd. 3. **Responsibilities of brokers. (a) Supervision of personnel.** A primary
 12.12 broker shall adequately supervise the activities of the broker's salespersons and employees.
 12.13 Supervision includes the ongoing monitoring of listing agreements, purchase agreements,
 12.14 other real estate-related documents which are prepared or drafted by the broker's
 12.15 salespersons or employees or which are otherwise received by the broker's office, and the
 12.16 review of all trust account books and records. ~~If an individual~~ a primary broker maintains
 12.17 more than one place of business, each place of business shall be under the broker's
 12.18 direction and supervision. If a brokerage maintains more than one place of business, each
 12.19 place of business shall be under the direction and supervision of an individual broker
 12.20 licensed to act on behalf of the brokerage.

12.21 The primary broker shall maintain records specifying the name of each broker
 12.22 responsible for the direction and supervision of each place of business. If an individual
 12.23 broker, who may be the primary broker, is responsible for supervising more than one
 12.24 place of business, the primary broker shall, upon written request of the commissioner,
 12.25 file a written statement specifying the procedures which have been established to ensure
 12.26 that all salespersons and employees are adequately supervised. Designation of another
 12.27 broker to supervise a place of business does not relieve the primary broker of the ultimate
 12.28 responsibility for the actions of licensees.

12.29 (b) **Preparation and safekeeping of documents.** A broker is responsible for the
 12.30 preparation, custody, safety, and accuracy of all real estate contracts, documents, and
 12.31 records, even though another person may be assigned these duties by the broker. A broker
 12.32 shall have a written company policy that identifies and describes the types of real estate
 12.33 brokerage relationships in which the broker and affiliated licensees may engage with any
 12.34 seller or buyer as a part of any real estate brokerage activities.

12.35 (c) **Documentation and resolution of complaints.** A broker shall investigate and
 12.36 attempt to resolve complaints made regarding the practices of any individual licensed to

13.1 the broker and shall maintain, with respect to each individual licensed to the broker, a
 13.2 complaint file containing all material relating to any complaints received in writing for
 13.3 a period of three years.

13.4 (d) **Disclosure of listed property information.** A broker may allow any unlicensed
 13.5 person, who is authorized by the broker, to disclose any factual information pertaining
 13.6 to the properties listed with the broker, if the factual information is provided to the
 13.7 unlicensed person in written form by the broker representing or assisting the seller(s).

13.8 (e) **Property management functions for individually owned or entity-owned**
 13.9 **real estate.** A broker shall not be responsible for supervising, nor shall the licensee be
 13.10 responsible for operating, within the scope of the brokerage or within the requirements of
 13.11 this chapter, activities that would be considered property management, including leasing,
 13.12 maintenance, and repair, so long as the real estate being managed is "individually owned"
 13.13 or "entity-owned" as defined below:

13.14 (1) "individually owned" real estate is real property in which the licensee holds an
 13.15 ownership interest; and

13.16 (2) "entity-owned" real estate is real property owned by a corporation, limited
 13.17 liability company, partnership, or trust, within which entity the licensee holds an ownership
 13.18 interest as an owner, trustee, partner, or officer, or in another beneficiary capacity.

13.19 Sec. 7. Minnesota Statutes 2012, section 82.73, is amended by adding a subdivision to
 13.20 read:

13.21 Subd. 4. **Prohibition.** A licensee responsible for the direction and supervision of
 13.22 other licensees is prohibited from acting as a designated agent for a party in a real estate
 13.23 transaction when a salesperson subject to that licensee's direction and supervision is acting
 13.24 as a designated agent for the other party.

13.25 Sec. 8. Minnesota Statutes 2012, section 82.73, is amended by adding a subdivision to
 13.26 read:

13.27 Subd. 5. **Restrictions on the disclosure of information.** In a designated agency
 13.28 situation, salesperson(s) representing seller(s) or buyer(s) shall not disclose certain
 13.29 information of a personal nature to the other party without that party's authorization.
 13.30 The protected information is as follows:

13.31 (1) the party's willingness to agree to a price, terms, or any conditions of sale other
 13.32 than those established or offered;

13.33 (2) the motivation of the party for engaging in the transaction, unless disclosure is
 13.34 otherwise required by statute or rule; and

- 14.1 (3) any information about the party that the party has identified as confidential,
- 14.2 unless disclosure is otherwise required by statute or rule.