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Real Estate Brokers and Salesmen

Secs. 20-328-1—20-328-10.

Repealed, May 18, 1990.

Sec. 20-328-1a. Definitions

For purposes of Sections 20-328-1a through 20-328-10a, the following terms shall have the meanings indicated:

(a) “Blockbusting” means to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, religion, color, national origin, ancestry, sex, familial status, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation or physical or mental disability, including but not limited to blindness or deafness;

(b) “Broker” or “Real estate broker” means “real estate broker” as this term is defined by Connecticut General Statutes, Section 20-311 (1), as amended;

(c) “Commercial real estate transaction” means “Commercial real estate transaction” as defined in Connecticut General Statutes, Section 20-311(9) as amended;

(d) “Licensee” means “Real estate broker” or “real estate salesman” as these terms are defined by Connecticut General Statutes, Section 20-311 (1) and (2);

(e) “Net listing” means a listing contract in which the broker receives as a commission all excess moneys over and above the minimum sales price agreed upon by the broker and seller;

(f) “Salesperson” or “Real estate salesperson” means “real estate salesperson” as this term is defined by Connecticut General Statutes, Section 20-311 (2); and

(g) “Steering” means to restrict or attempt to restrict, because of race, creed, religion, color, national origin, ancestry, sex, familial status, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation or physical or mental disability, including but not limited to blindness or deafness, the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

(h) “Advertising” means all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to engaging in the real estate business.

(Effective May 18, 1990; amended September 28, 1995, June 5, 2002, February 4, 2004)

Sec. 20-328-2a. Duties to parties

(a) A licensee shall not undertake to provide professional services concerning a property or its value where the licensee has a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

(b) A licensee shall not acquire an interest in or buy for himself or herself, any member of the licensee’s immediate family, the licensee’s firm or any member thereof, or any entity in which the licensee has a substantial ownership interest, property listed with the licensee, without disclosing to the listing owner the licensee’s relationship to the prospective buyer or lessee. In selling or leasing property owned by the licensee or in which the licensee has any interest, the licensee shall reveal the extent of his or her ownership or interest to the prospective buyer or lessee.

(c) A licensee accepting an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing shall make a diligent effort to sell or lease the property

listed. A licensee who agrees to become an exclusive agent of a prospective buyer or lessee shall make a diligent effort to find a property within the prospective buyer's or lessee's specifications.

(d) No licensee shall submit to an owner a written offer to purchase or lease real property unless either (1) such offer contains the essential terms and conditions of the offer, including the manner in which the purchase is to be financed; or (2) such offer is conditioned upon the later execution of a bond for deed or complete agreement for sale. No licensee shall submit to an owner a written agreement or a bond for deed for the sale of real estate which contains a mortgage contingency clause which conditions the prospective buyer's performance on obtaining a mortgage from a third party unless the contingency clause includes at least the following: (1) the principal amount of the mortgage the prospective buyer must obtain; (2) the time period within which the mortgage commitment must be obtained; and (3) the term of years of the mortgage.

(e) (1) The listing real estate broker shall submit all offers or counter-offers to the seller, owner or lessor as quickly as possible. Unless the listing real estate broker and the seller, owner or lessor agree otherwise, the listing real estate broker shall not be obligated to continue to market the property after an offer or counter-offer has been accepted. After the acceptance of an offer or counter-offer, the listing real estate broker shall advise any other offerors that an offer or counter-offer on the listed property has been accepted.

(2) A licensee acting as the agent of the buyer or lessee shall present all offers or counter-offers to the prospective buyer or lessee as quickly as possible. Unless a licensee acting as the agent of the prospective buyer or lessee and the buyer or lessee agree otherwise, the licensee shall not be obligated to continue to show properties to the prospective buyer or lessee after an offer or counter-offer has been accepted.

(f) (1) All dealings concerning property exclusively listed with an agent shall be conducted with the listing agent, and not the seller, owner or lessor. A licensee may contact the seller, owner or lessor of property exclusively listed with an agent if the listing agent consents to the contact or the licensee, after diligent effort, is unable to communicate with the listing agent or a licensee designated by the listing agent to service the listing in the listing agent's absence.

(2) All dealings concerning a prospective buyer or lessee who is exclusively represented by an agent shall be conducted with the prospective buyer's or lessee's agent, and not with the prospective buyer or lessee. A licensee may contact a prospective buyer or lessee who is exclusively represented by an agent if the agent representing the prospective buyer or lessee consents to the contact or the licensee, after diligent effort, is unable to communicate with the prospective buyer's or lessee's agent or a licensee designated by the buyer's or lessee's agent to service the buyer in the buyer's or lessee's agent's absence.

(g) No signs shall be placed on any property which relate to a real estate transaction without the written consent of the owner or the lessor, or his or her duly authorized agent or fiduciary.

(h) In the sale or lease of property which is exclusively listed with a real estate broker pursuant to an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing, the broker shall cooperate with other real estate brokers upon mutually agreed upon terms when it is in the best interests of the party or parties for whom the broker is acting.

(Effective May 18, 1990; amended September 28, 1995)

Sec. 20-328-3a. Duty to cooperate with department and real estate commission

A licensee shall cooperate with department staff if the licensee is contacted in connection with an investigation performed by the Department of Consumer Protection concerning possible violations of real estate statutes or regulations. A licensee shall not make any untruthful or misleading statements in connection with any Department of Consumer Protection or Real Estate Commission investigation or hearing.

(Effective May 18, 1990; amended September 28, 1995)

Sec. 20-328-4a. Discrimination and fair housing

(a) A licensee shall neither deny equal professional services to any person nor be party to any plan or agreement to discriminate against a person or persons on the basis of race, creed, color, national origin, ancestry, sex, marital status, age, sexual orientation, lawful source of income, learning disability, mental retardation, mental disability, or physical disability, including, but not limited to, blindness or deafness. A licensee shall not violate any federal or state fair housing statute or regulation.

(b) No licensee shall participate in activities which constitute blockbusting or steering.

(c) A licensee shall place in all listing and buyer agency agreements a statement in the following form: This agreement is subject to the Connecticut General Statutes prohibiting discrimination in commercial and residential real estate transactions (C.G.S. Title 46a, Chapter 814c).

(Effective May 18, 1990; amended November 25, 1991, September 28, 1995)

Sec. 20-328-5a. Misrepresentation, disclosure and advertising.

(a) A licensee shall not misrepresent or conceal any material facts in any transaction.

(b) No licensee shall misrepresent the actual selling price of real estate to any lender or any other interested party, either verbally or through the preparation of a false sales contract.

(c) A real estate broker shall exercise diligence at all times in obtaining and presenting accurate information in the broker's advertising and representations to the public. No broker shall advertise to sell, buy, exchange, rent or lease the property of another in a manner indicating the offer to sell, buy, exchange, rent or lease such property is being made by a private party not engaged in the real estate business. The real estate broker shall neither advertise without disclosing the broker's name nor permit any person associated with the broker to use individual names, telephone numbers or mailing addresses, to the exclusion of the name of such broker.

(d) No real estate licensee shall modify or change the listing information of a real estate broker without the express permission of the real estate broker. No real estate licensee shall advertise real estate listed with a real estate broker with whom the real estate licensee is not affiliated without the permission of the listing real estate broker. No real estate licensee shall advertise real estate listed with a real estate broker with whom the real estate licensee is not affiliated without updating such advertising at least once every seventy-two (72) hours. No real estate licensee shall advertise real estate listed with a real estate broker with whom the real estate licensee is not affiliated without identifying that the real estate is not listed with the real estate licensee.

(e) A real estate licensee advertising or marketing on an internet site, owned or controlled by the real estate licensee, shall include on the home page of the site on which the real estate licensee's advertisement or information appears the following data:

(1) licensee's name and office address as it appears on said licensee's real estate license;

(2) name of the real estate broker with whom the licensee is affiliated, as that real estate broker's name is registered with the commission;

(3) all states in which the licensee holds a salesperson or broker license;

(4) last date on which property information shown on the site was revised.

(f) A real estate licensee using internet electronic communication for advertising or marketing, including but not limited to e-mail, e-mail discussion groups, and bulletin boards, shall include on the first or last page of all communications the following data:

(1) the licensee's name and office address;

(2) the name of the real estate broker with whom the licensee is affiliated as that real estate broker's name is registered with the commission;

(3) all states in which the licensee holds a salesperson or broker license.

(Effective May 18, 1990; amended September 28, 1995, February 4, 2004)

Sec. 20-328-6a. Agreements

(a) (1) Before a licensee attempts to negotiate a sale, exchange, or lease of real estate, other than a commercial real estate transaction, on behalf of the owner or lessor of real estate, the licensee shall enter into a listing agreement with the party or parties for whom the licensee will act. All listing agreements shall be in writing, properly identifying the property and containing all of the terms and conditions of the sale, exchange or lease, including the commission to be paid, the date on which the listing agreement is entered into and its expiration date. The listing agreement shall be signed by the owner, seller or lessor or an agent authorized to act on behalf of the owner, seller or lessor only by a written document executed in the manner provided for conveyances in Connecticut General Statutes, Section 47-5, and by the broker or the broker's authorized agent. The type of listing shall be clearly indicated in the listing agreement. The licensee shall deliver immediately a copy of any listing agreement to any party or parties executing the same, where such listing agreement has been prepared by such licensee or under the licensee's supervision and where such listing agreement relates to a real estate transaction with which the licensee is associated as a broker or a salesman. For listing agreements entered into on or after October 1, 2004, if the real estate broker permits real estate licensees not affiliated with the real estate broker to advertise the real estate, the real estate broker shall disclose such permission and all exceptions to the advertising on the listing agreement and obtain the owner's or lessor's authorization for such advertising.

(2) Before a licensee attempts to negotiate a purchase, exchange or lease of real estate, other than a commercial real estate transaction, on behalf of a prospective buyer or lessee of real estate, the licensee shall enter into an agency agreement with the party or parties for whom the licensee will act. All agency agreements shall be in writing, containing all of the terms and conditions of the agency agreement, including the compensation to be paid, the date on which the agency agreement is entered into and its expiration date. The agency agreement shall be signed by the prospective buyer or lessee or an agent authorized to act on behalf of the prospective buyer or lessee only by a written document executed in the manner provided for

conveyances in Connecticut General Statutes, section 47-5, and by the broker or the broker's authorized agent. The licensee shall deliver immediately a copy of any agency agreement to any party or parties executing the same, where such agency agreement has been prepared by such licensee or under the licensee's supervision and where such buyer agency agreement relates to a real estate transaction with which the licensee is associated as a broker or salesman.

(b) For all instruments other than listing agreements, buyer agency agreements or lessee agency agreements, the licensee, for the protection of all parties, shall use his or her best efforts to assure that all contractual commitments regarding real estate transactions with which the licensee is associated are in writing, dated, and express the agreement of the parties. The licensee shall deliver immediately a copy of any such instrument to any party or parties executing the same, where such instrument has been prepared by such licensee or under the licensee's supervision and where such instrument relates to a real estate transaction with which the licensee is associated as a broker or a salesman.

(c) No licensee shall accept or enter into a net listing. In cases where the owner or the lessor wishes to list in this manner, the agreed upon fee shall be added and listings made in the usual manner.

(d) A licensee attempting to negotiate or negotiating a sale, exchange, or lease of a commercial real estate transaction shall obtain a listing, buyer or tenant representation agreement, memorandum, letter, or other writing stating for whom the licensee will act or has acted, signed by the party for whom the licensee will act or has acted in the commercial real estate transaction, the duration of the authorization and the amount of any compensation payable to the licensee.

(Effective May 18, 1990; amended September 28, 1995, June 5, 2002, February 4, 2004)

Sec. 20-328-7a. Deposits

(a) When a licensee receives a deposit or other moneys with respect to any transaction in which the licensee is engaged on behalf of the real estate broker with whom the licensee is affiliated, the licensee shall promptly pay over the deposit or other moneys to such real estate broker.

(b) Any real estate broker who, in the course of the real estate broker's real estate business and in connection with any transaction, accepts from any principal, client or other person any moneys, to which the real estate broker is not personally and legally entitled, including but not limited to any down payment, earnest money, deposit, rental money or other money to be held by the real estate broker in trust, shall deposit such moneys in an escrow or trust account in a bank doing business in the State of Connecticut unless otherwise required by law.

(Effective May 18, 1990; amended September 28, 1995)

Sec. 20-328-8a. Commissions and compensation

(a) No licensee shall demand compensation unless reasonable cause for payment of compensation exists.

(b) When an owner, lessor, prospective buyer or lessee wrongfully fails or is unable to consummate a transaction, the real estate broker has no right to any portion of the money, if any, deposited with the real estate broker, even though compensation may have been earned.

(c) While engaging in the real estate business, a licensee shall not accept any commission, rebate, or profit on expenditures made for the licensee's principal, without the knowledge and consent of the licensee's principal.

(d) A licensee shall not accept compensation from more than one party in a real estate transaction without notifying all parties to the transaction prior to the closing.

(e) No licensee shall offer, promise, allow, give, pay or rebate, directly or indirectly, any part or share of the licensee's commission or compensation arising or accruing from any real estate transaction to any person who is engaging in the real estate business and who was not licensed as a real estate broker or real estate salesman at the time the real estate broker or real estate salesman performed the acts or rendered the services for which the licensee offers, promises, allows, gives, pays or rebates such commission or compensation.

(f) If a licensee receives or is awarded any compensation with respect to any transaction in which the licensee is engaged on behalf of the real estate broker with whom the licensee is affiliated, the licensee shall promptly pay over or assign such compensation to such real estate broker.

(g) In a cooperative real estate transaction, a real estate broker shall compensate the cooperating real estate broker and shall not compensate nor offer to compensate, directly or indirectly, any of the real estate salesmen or brokers employed by or affiliated with the cooperating real estate broker without the prior express knowledge and consent of the cooperating broker.

(Effective May 18, 1990; amended September 28, 1995)

Sec. 20-328-9a. Interference with agency or contract relationship

(a) A licensee shall not engage in any practice or take any action which interferes with the agency relationship of another licensee.

(b) No licensee shall induce or attempt to induce any party to a contract of sale or lease of real property to breach or terminate such contract for the purpose of substituting in lieu thereof a new contract with another principal of the licensee.

(c) No licensee shall induce or attempt to induce an owner or a lessor of property to breach or terminate an exclusive right to sell or lease listing or an exclusive agency to sell or lease listing for the purpose of substituting in lieu thereof a new listing contract. No licensee shall induce or attempt to induce a prospective buyer or lessee to breach or terminate an exclusive representation agency agreement for the purpose of substituting a new exclusive representation agency agreement in lieu thereof.

(Effective May 18, 1990; amended September 28, 1995)

Sec. 20-328-10a. Brokers and salesmen

(a) Upon termination of a licensee's employment or affiliation with a real estate broker, a licensee shall immediately turn over to such broker any and all information and records obtained during the licensee's employment or affiliation, whether such information or records were originally given by the licensee's broker or copied from the records of such employing broker or acquired by the licensee during the licensee's employment or affiliation with the real estate broker.

(b) Upon the termination of the employment or affiliation of a licensee with a real estate broker, the real estate broker shall give the licensee, within ten days of the date on which the licensee turns over to the real estate broker any and all information and records in accordance with this section, or within forty-five days of said termination, whichever is earlier, a written accounting setting forth all active listing agreements, agency agreements, transactions, commissions and compensation in which the licensee was involved. The accounting required by this subsection shall also include a statement of the commission or compensation, if any, which the real estate broker intends to pay the salesman on account of the active listings,

agency agreements, transactions, commissions and compensation in which the licensee was involved.

(Effective May 18, 1990; amended September 28, 1995)

Secs. 20-328-11—20-328-26.

Repealed, May 18, 1990.

Real Estate Brokers, Salesmen and Appraisers

Secs. 20-328-27—20-328-33.

Repealed, May 18, 1994.