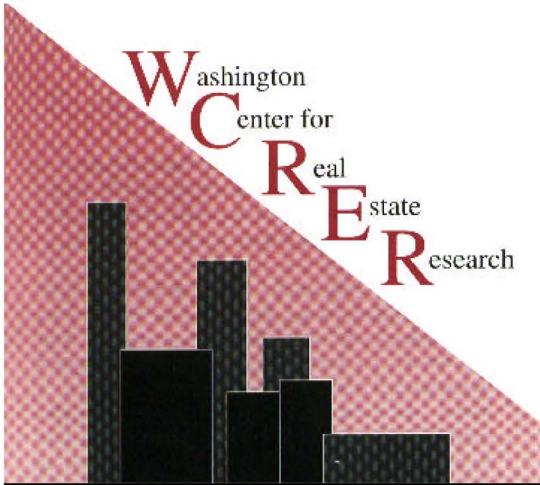




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Consumer Guide to Real Estate Practices in Washington

Information for:

- Sellers
- Buyers
- Real Estate Licensees

~ Real Estate Practices in Washington ~

Purchasing a home is the biggest expenditure most people ever make, yet real estate practice is alien territory to most households. There are legal documents which need to be executed correctly, loan papers to understand, disclosures to file, etc.

Real estate licensees have taken prelicense education programs, and are required to take continuing real estate education to retain their licenses, but even they have a difficult time explaining some of the practices. They know **HOW** to do a transaction properly, but perhaps not **WHY** the practice follows those conventions.

Suppose you meet someone at a social event and ask what they do for a living. A typical real estate licensee will reply one of two ways, they will say “I’m a real estate agent” or “I’m a realtor”. Technically, the first response describes a relationship between that licensee and an individual seller or buyer, while the second statement indicates membership in an industry trade association -- a membership which may or may not actually exist. The most accurate response, “I’m a real estate licensee” (or salesperson/broker) seems too complicated, but probably should be used.

This brochure cannot explain all the intricacies of participating in the real estate market, but it is designed to answer some of the questions

which are most frequently asked of the industry regulators at the Washington State Department of Licensing, or have arisen in research on home buying or selling experiences.

This brochure is presented in question and answer format to make it easy to use and to help you identify those portions of the material which matter to you. It is not intended as legal advice, rather, it should provide a glimpse into the operation of the real estate market as you endeavor to purchase the home of your dreams or sell your current home for a fair price.

Real estate licensees have access to tools to help speed your search or evaluate competing homes. They are acquainted with local lenders and other service providers (attorneys, appraisers, inspectors, etc.). They know about the local schools, recreation, health care and shopping, and often they live in the communities and can help ease the transition.

If you choose to use a real estate licensee’s assistance in buying or selling your home, you will need to share sensitive financial information, and need to identify a salesperson or associate broker with whom you are really comfortable.

We hope this guide will help you clarify your thinking and decision making.

Am I required to use an agent?

No. The decision to seek professional assistance is typically driven by the buyer's familiarity with the home sales process and their familiarity with the community. The more limited a buyer's time to devote to finding a home, the more valuable professional assistance may become. Buyers from outside the area often find the assistance of a local expert helpful, both in terms of evaluating neighborhoods and the values represented by asking prices.

Sellers must balance the cost of the service against access to larger numbers of potential buyers, their own marketing expertise, and the time they might have available to expedite the transaction, once they have an accepted offer. Legal forms may be difficult to complete without the assistance of a licensee. While the Internet may seem to be a tool which eliminates the needs for real estate experts, the transaction details go far beyond a web site.

Who pays the commission?

In general, the commission is paid by the seller, and is split with the real estate licensees working with the buyers. It is unclear whether home prices are significantly influenced by the decision to work with a licensee.

Some buyers choose to compensate the agent themselves to separate the commission from the price of the house, but this is still relatively infrequent. A few licensees charge buyers hourly rates instead of a share of the commission.

Isn't the commission too high?

The compensation for real estate brokerage services is negotiated between the client (usually the seller) and the broker when a listing is taken. While it may seem that commission rates are fixed, they really can be negotiated. A real estate broker may be willing to reduce some

fees, but not others.

Around the country most real estate commissions are between five and seven percent of the purchase price. For typical homes in Washington (\$150,000), that would translate into a commission between \$7,500 and \$10,500. That commission supports the services of many people and many activities.

Real estate salespeople work for real estate brokers. Part of the commission compensates the salesperson working with the seller, and part compensates the salesperson working with the buyer. Since in most transactions two separate offices or firms are involved, part of the commission compensates the two brokers, who have the legal liabilities, are required to maintain specific paperwork, and must provide the office space, telephone lines, etc. Salespersons also have to reimburse the broker for classified advertising, long distance telephone, and other services provided by the broker which are related directly to your transaction.

Does a licensee represent me?

Under the Real Estate Brokerage Relationships Act, Washington real estate licensees working with purchasers are assumed to be AGENTS of the buyer, unless there is a written agreement to the contrary. Sellers typically have a written listing agreement with a real estate broker which stipulates that the broker is the seller's agent in the transaction.

Some real estate licensees choose to serve a middle ground, where their efforts are directed to completing the transactions, without putting the interest of either the buyer or the seller ahead of the other. Individuals who operate this way are often called facilitators or transaction brokers. Transaction brokerage is not widespread in Washington.

What are the duties of agents?

Under the Real Estate Brokerage Relationships Act (RCW 18.86), Washington has assigned these duties to all real estate licensees:

- T** To exercise reasonable skill and care
- T** To deal honestly and in good faith
- T** To present all written offers, written notices and other written communications to and from either party in a timely manner
- T** To disclose all existing material facts known by the licensee and not apparent or readily ascertainable; but this does not imply any duty to investigate matters that the licensee has not agreed to investigate
- T** To account in a timely manner for all money and property received from or on behalf of either party
- T** To provide a pamphlet (not this one) on the law of real estate agency to all parties to whom the licensee renders real estate brokerage services, before he/she signs an agency agreement with the licensee, signs an offer in a real estate transaction handled by the licensee, consents to dual agency, or waives any rights
- T** To disclose in writing to all parties to whom the licensee renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both parties, or neither party.

Why doesn't the agent push harder for me?

The buyer makes an offer. The seller feels the offer is too low. Now the negotiation process takes over. Sometimes it seems both the seller's agent and the buyer's agent get confused by their roles, and they begin to work for a compromise, rather than exclusively for the client's best interest. Remember, insisting on a bargain-basement price may result in no purchase, and insisting on an above-market price may result in a delayed sale (often at an even lower price). Once an offer is in play, the pressure is on all sides to strike a deal quickly.

What about disclosures?

Real estate licensees will require you to sign a statement indicating you understand their agency duties. If you are a seller, you will need to complete a "Seller Property Condition Disclosure" form. A licensee may help, but cannot complete the form for you. If you need more information about this requirement, WCRER has a separate brochure available.

~ Real Estate ~
Brokerage
Relationships Act
(Chapter 18.86 RCW)

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