

NOTICE TO CONSUMERS CONTEMPLATING PURCHASE OR SALE OF REAL ESTATE IN NEW MEXICO.

By regulation of the New Mexico Real Estate Commission, all licensees must disclose to the consumer the various brokerage relationships available in this state. The REALTORS® Association of New Mexico has prepared and provided this document to its members for use as an informational tool to assist in the disclosure process. This Notice is for use by members of the REALTORS® Association of New Mexico and can be reproduced only by them, their clients and customers.

In New Mexico, any person holding a valid real estate license is called a licensee.

A CONSUMER HAS THE RIGHT TO EXPECT CERTAIN BASIC DUTIES OF A LICENSEE, ESTABLISHED BY REGULATIONS.

- Disclosure of:
 - Any adverse material facts actually known by the Licensee about the property or the transaction; adverse material facts do not include data from sex offender registry or the existence of group homes;
 - All adverse material facts actually known by the licensee pertaining to the parties' financial ability to perform the transaction;
- Disclosure of any material interest or relationship of a business, personal or family nature;
- Presentation of all offers in a timely manner;
- Performance of any oral or written agreements with the parties;
- Prompt accounting for all monies or properties received;
- Assistance to all parties in accordance with local, state, and federal fair housing and anti-discrimination laws;
- Assistance regarding the transaction, including suggestions to obtain expert advice concerning matters beyond the licensee's expertise;
- Assistance to the parties in complying with the terms and conditions of the contract and with the closing of the transaction;
- Maintenance of confidential information learned in the course of any prior agency relationship unless disclosure is with the client's consent or is required by law.

In addition to the duties described in the above Licensee section, every Licensee who agrees to act as an Agent will owe to his or her client fiduciary duties which include:

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| • Loyalty | • Reasonable care |
| • Full Disclosure | • Confidentiality |
| • Obedience to lawful instructions | • Accounting for all money in the agent's control |

THE FOLLOWING BROKERAGE RELATIONSHIPS ARE AVAILABLE TO A CONSUMER:

1. **EXCLUSIVE AGENT.** In New Mexico, an agency relationship between a consumer and a brokerage will exist only if the consumer and the brokerage agree in writing to the agency relationship .

The following exclusive agency relationships are available to a consumer who signs and express written agency agreement.
 1. Seller's Agent. A licensee who, on behalf of the licensee's Qualifying Broker, acts as the agent of the owner of real property for the purpose of selling the property. In addition to licensee's duties, a seller's agent owes fiduciary duties to the seller.
 2. Subagent of the Listing Broker. A licensee, who, on behalf of the licensee's Qualifying Broker, works as an agent of the seller, to assist a buyer customer to purchase real property that is listed for same by another licensee who is acting as an agent of the seller. In this relationship, the licensee working with the buyer is a subagent of the listing agent and owes fiduciary duties to the seller of the property.
 3. Buyer's Agent. A licensee, who, acting on behalf of the licensee's Qualifying Broker, works as an agent of the buyer for the purpose of purchasing real property. In addition to licensee's duties, a buyer's agent owes fiduciary duties to the buyer.
 4. Designated Agent. A licensee, who, acting on behalf of the licensee's Qualifying Broker, is designated by the broker as the sole representative of a buyer-client or seller-client. In addition to licensee's duties, the designated agent owes fiduciary duties to the buyer-client or seller-client. The Qualifying Broker must maintain impartiality to both parties, and must not disclose confidential information of either party.
2. **DUAL AGENT.** A relationship that occurs only in certain specific situations: (1) one agent represents both a buyer-client and a seller-client in the same transaction; (2) one agent represents either a buyer-client or a seller-client and the other party in the transaction is represented by the agent's Qualifying Broker; (3) where Designated Agency has not been chosen by a Qualifying Broker, any transaction where a buyer-client and a seller-client are each represented by an agent supervised by the same Qualifying Broker. A dual agent acts as a facilitator for a buyer-client and a seller-client in a single transaction, rather than as a sole representative of either party.
3. **NON-AGENT.** The following non-agency relationships are also available to consumers:
 1. Exclusive Non-Agent. A licensee who, acting on behalf of the licensee's Qualifying Broker, provides real estate services as a non-agent to a consumer on an exclusive basis. A written non-agency agreement is required to create this relationship.
 2. Non-Exclusive Non-Agent ("Licensee"). A licensee who, acting on behalf of the licensee's Qualifying Broker, provides real estate services as a non-agent to a consumer customer. This relationship exists if no written agreement is entered into.

A consumer who wants to create an agency relationship must sign a written agreement in order to do so. If a consumer is using real estate services without an express written Agency Agreement, no agency relationship or agency duties will be imposed on the brokerage.