

§ 3891. DEFINITIONS

(1) "Agency" means a relationship in which a real estate broker or licensee represents a client by the client's consent, whether express or implied, in an immovable property transaction.

(2) "Broker" means any person licensed by the Louisiana Real Estate Commission as a real estate broker.

(3) "Brokerage agreement" means an agreement for brokerage services to be provided to a person in return for compensation or the right to receive compensation from another.

(4) "Client" means one who engages the professional advice and services of a licensee as his agent.

(5) "Commission" means the Louisiana Real Estate Commission.

(6) (a) "Confidential information" means information obtained by a licensee from a client during the term of a brokerage agreement that was made confidential by the written request or written instruction of the client or is information the disclosure of which could materially harm the position of the client, unless at any time any of the following occurs:

(i) The client permits the disclosure by word or conduct.

(ii) The disclosure is required by law or would reveal serious defect.

(iii) The information becomes public from a source other than the licensee.

(b) Confidential information shall not be considered to include material information about the physical condition of the property.

(c) Confidential information can be disclosed by a designated agent to his broker for the purpose of seeking advice or assistance for the benefit of the client.

(7) "Customer" means a person who is not being represented by a licensee but for whom the licensee is performing ministerial acts.

(8) "Designated agency" means ~~a contractual relationship between a broker and a client under which one or more licensees affiliated with the broker are designated as agents of the client~~ the agency relationship that shall be presumed to exist when a licensee engaged in any real estate transaction, except as otherwise provided in this Chapter, is working with a client, unless there is a written agreement providing for a different relationship.

(9) "Designated agent" means a licensee ~~named by a broker as~~ who is the agent of a client.

(10) "Dual agency" means an agency relationship in which a licensee is working with both buyer and seller or both landlord and tenant in the same transaction. However,

such a relationship shall not constitute dual agency if the licensee is the seller of property that he owns or if the property is owned by a real estate business of which the licensee is the sole proprietor and agent. A dual agency relationship shall not be construed to exist in a circumstance in which the licensee is working with both landlord and tenant as to a lease which does not exceed a term of three years and the licensee is the landlord.

(11) "Licensee" means any person who has been issued a license by the commission as a real estate salesperson or a real estate broker.

(12) "Ministerial acts" means those acts that a licensee may perform for a person that are informative in nature. Examples of these acts include but are not limited to:

(a) Responding to phone inquiries by persons as to the availability and pricing of brokerage services.

(b) Responding to phone inquiries from a person concerning the price or location of property.

(c) Conducting an open house and responding to questions about the property from a person.

(d) Setting an appointment to view property.

(e) Responding to questions from persons walking into a licensee's office concerning brokerage services offered or particular properties.

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property.

(g) Describing a property or the property's condition in response to a person's inquiry.

(h) Completing business or factual information for a person represented by another licensee on an offer or contract to purchase.

(i) Showing a person through a property being sold by an owner on his or her own behalf.

(j) Referral to another broker or service provider.

(13) "Person" means and includes individuals and any and all business entities, including but not limited to corporations, partnerships, trusts and limited liability companies, foreign or domestic.

(14) "Substantive contact" means that point in any conversation where confidential information is solicited or received. This includes any specific financial qualifications of the consumer or the motives or objectives in which the consumer may divulge any confidential, personal, or financial information, which, if disclosed to the other party to the transaction, could harm the party's bargaining position. This includes any

electronic contact, electronic mail, or any other form of electronic transmission.

Added by Acts 1997, No. 31, § 1, eff. March 1, 1998. Amended by Acts 1999, No. 452, §1, Acts 2010, No. 247, §1