

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1853

By: Representatives J. Moore, Hawk
By: Senators C. Penzo, J. Dotson, Hester

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING AGENCY
RELATIONSHIP AND DUTIES RELATED TO REAL ESTATE
LICENSES; TO CLARIFY THE OBLIGATIONS OF DUAL AGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING AGENCY
RELATIONSHIP AND DUTIES RELATED TO REAL
ESTATE LICENSES; AND TO CLARIFY THE
OBLIGATIONS OF DUAL AGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-42-316 is amended to read as follows:
17-42-316. Agency relationship and duties generally.

(a) The common law of agency under Arkansas as supplemented by this section applies to the relationship between a licensee and the licensee's client.

(b)(1)(A) ~~In~~ Except as provided under subdivision (b)(1)(B) of this section, in accepting employment by a client, a licensee pledges a primary duty of absolute fidelity to protect and promote the interests of the client or clients.

(B) Multiple clients who are represented by the licensee and have consented to dual agency may contractually waive the primary duty of absolute fidelity of the licensee under subdivision (b)(1)(A) of this section.

(2) The licensee's duty includes without limitation the



obligation to:

- (A) Use reasonable efforts to further the interest of the client;
 - (B) Exercise reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
 - (C) Perform the terms of the written agency agreement;
 - (D) Follow lawful instructions of the client unless doing so would expose the licensee to liability from another party to a contract, lease, or rental agreement;
 - (E) Perform all duties specified in this section in a manner that demonstrates loyalty to the interests of the client;
 - (F) Comply with all requirements of this section and other applicable statutes and rules;
 - (G) Disclose to the client material facts of the transaction that the licensee is aware of or should be aware of in the exercise of reasonable skill and care and that are not confidential information under a current or prior agency or dual agency relationship;
 - (H) Advise the client to obtain expert advice concerning material matters when necessary or appropriate;
 - (I) Account in a timely manner for all moneys and property received in which the client has or may have an interest;
 - (J)~~(i) Keep confidential all confidential information~~
Except as provided in subdivision (b)(2)(J)(ii) of this section, refrain from disclosing any confidential information.
 - (ii) The disclosure of confidential information may be limited by contract when a licensee is an authorized dual agent under subdivision (b)(1)(B) of this section, including without limitation confidential information from or concerning the client that may materially compromise the negotiating position of the client, unless disclosure is required by law or is authorized in writing by the client; and
 - (K) Refrain from disclosing confidential information to a licensee who is not an agent of the client.
- (c) ~~The~~ Except as provided in subsection (b)(1)(B) and subdivision (b)(2)(J)(ii) of this section, the duties required of a licensee under this section may not be waived by a client.