



## **Instructions for Completion of Broker Disclosure to Clients**

These are the instructions for completing the Wisconsin REALTORS<sup>®</sup> Association's (WRA) Broker Disclosure to Clients. A Broker Disclosure to Client form is required for all new agency relationships created on or after July 1, 2006. The WRA disclosure form contains the new mandatory language explaining agency relationships and explaining multiple representation relationships such as multiple representation without designated agency and with designated agency. If an agent takes a new listing or signs a new buyer agency agreement on or after July 1, 2006, a Broker Disclosure to Clients must be used because the agency provisions in the listings and the buyer agency agreement will not be correct under the revised agency law.

### **USE OF WRA BROKER DISCLOSURE TO CLIENTS WITH NEW AGENCY CONTRACTS**

Starting July 1, 2006, and until the time that the Department of Regulation and Licensing (DRL) creates revised listing contracts and buyer agency agreements that include the new mandatory agency disclosure language for clients, Wisconsin REALTORS<sup>®</sup> should follow a two-step process: 1) have the client sign the Broker Disclosure to Clients form; and then 2) execute the agency agreement.

#### **STEP #1 – EXECUTE BROKER DISCLOSURE TO CLIENTS**

The WRA's Broker Disclosure to Clients form resembles the agency disclosure forms that have been used with clients in the past, and the language is similar to the agency disclosure language that appears in the existing DRL-approved agency agreements. But the primary difference is significant: the agency disclosure language in the present DRL-approved listing contract and buyer agency agreement forms will become obsolete as of July 1, 2006. The Broker Disclosure to Clients should be used in conjunction with all new agency agreements as the interim measure that will ensure that all clients receive current information about agency and representation relationships.

Review the Broker Disclosure to Clients with the client and answer any questions. When the client is ready, prompt the client to indicate his or her representation preference, write in confidential or non-confidential information, write in home and/or cell phone numbers that may be used, and then sign and date the form.

#### **STEP #2 – EXECUTE AND MODIFY AGENCY AGREEMENT**

Once the Broker Disclosure to Clients has been signed, the agency agreement (listing contract or buyer agency agreement) may be executed. Portions of the agency agreements will be obsolete and will incorrectly describe the law as of July 1, 2006, so it may be helpful to delete those provisions that are no longer applicable, either by lining them out (in a manner in which they are still legible) and/or by including language in Additional Provisions, removing the obsolete

provisions by reference to their line numbers.

For example, if an agent was taking a residential listing, the following language may be inserted in the Additional Provisions section beginning at line 237 of the WB-1: “The Agency Disclosure Provisions at lines 174-236 have been replaced by the Broker Disclosure to Clients form and are deleted.” This same sentence may be used in other listings and agency agreements by plugging in the correct line numbers for that particular form.

The outdated agency disclosure provisions that may be lined out and/or deleted by reference to the line numbers are as follows:	
WB-1 Residential Listing Contract	Lines 174-236
WB-2 Farm Listing Contract	Lines 191-251
WB-3 Vacant Land Listing Contract	Lines 168-230
WB-4 Residential Condominium Listing Contract	Lines 197-253
WB-5 Commercial Listing Contract	Lines 157-215
WB-6 Business Listing Contract	Lines 128-180; 185-200
WB-8 Time Share Listing Contract	Lines 141-201
WB-36 Buyer Agency/Tenant Representation Agreement	Lines 47-95; 103-113
WB-37 Listing Contract for Lease of Real Property	Lines 75-135
WRA Property Management Agreement	Lines 100-149
WRA Exclusive Listing Contract for Lease of Commercial Property	Lines 54-100; 105-116
Some of these line references include information regarding confidentiality. To simplify the process, all of these sections may be lined out because confidentiality provisions are also included in the Broker Disclosure to Clients.	

## **USE OF BROKER DISCLOSURE TO CLIENTS WITH EXISTING AGENCY CONTRACTS**

The new broker disclosure forms may also be used if an existing client would like to change the type of multiple representation relationship that is authorized. Such a client already has a listing contract or a buyer agency agreement, but would like to change his or her selection as far as no multiple representation, multiple representation without designated agency, or multiple representation with designated agency.

The best way to document any change in the multiple representation authorization in these situations is by amendment to the agency agreement with a copy of the Broker Disclosure to Clients attached to the amendment. This may occur either before or after July 1, 2006.

**STEP #1** -- First the client executes the Broker Disclosure to Clients as in Step #1 above.

**STEP #2** -- Step #2, however, is a bit different. Instead of modifying the agency agreement by lining out or inserting language into the Additional Provisions lines in the agency agreement, the modification occurs in an amendment form such as the WB-42 Amendment to Listing Contract for listings, or the WB47 Amendment to Buyer Agency Contract for buyer agency agreements.

For example, the listing agent can complete a WB-42 Amendment to Listing Contract. The “Other” item at line 12 may be checked and the agent may then indicate on lines 12-25 that, “The attached Broker Disclosure to Clients dated \_\_\_\_\_ is made a part of the contract. The Agency Disclosure Provisions at lines 174-236 have been replaced by the Broker Disclosure to Clients form and are deleted.”

The line numbers listed above are appropriate for this purpose as well. Lining out is not appropriate because the contract already exists.

## **INSTRUCTIONS FOR COMPLETING THE AGENCY REPRESENTATION ITEM ON LINE 1 OF THE OFFER**

The purpose of the disclosure on line 1 of the DRL-approved offer to purchase is to reconfirm the agency status of the agent drafting the offer, in other words, clarifying whom the agent represents in the transaction. Until the DRL-approved offer to purchase forms are updated to reflect the revised agency law provisions, agents must do the best they can with the existing offer forms. Completion of Line 1 is based upon the agency representation of the agent drafting the offer: whose interests does the drafting agent represent?

### **Offer Drafted by Subagent**

The subagent is an agent of the listing broker and also owes limited duties to the seller. Line 1 of the offer may appropriately be completed to indicate that the agent drafting the offer is an “agent of seller.”

### **Offer Drafted by Designated Agent**

When a designated agent drafts an offer, that agent is participating in a designated agency representation relationship, but at the same time has an agency relationship with one party or the other. If the agent drafting the offer is a designated agent who has a buyer agency agreement with the buyer, that agent is representing the buyer in the same manner that he or she would if that agent was a buyer’s agent from a different broker/company. A designated agent representing the buyer may complete Line 1 to indicate that he or she is an “agent of buyer.”

### **Offer Drafted by Agent in Multiple Representation without Designated Agency**

When an agent in a multiple representation without designated agency drafts the offer, that agent cannot advocate for the buyer or represent the buyer’s interests in a manner that places the interests of the buyer ahead of the interests of the seller. This agent may complete Line 1 to indicate that he or she is a “dual agent.”