

HOUSE BILL NO. HB0193

Wyoming real estate commission-amendments.

Sponsored by: Representative(s) Morgan, Petersen, Reese
and Samuelson and Senator(s) Sessions and
Larson

A BILL

for

1 AN ACT relating to real estate brokers and salesmen;
2 providing for an administrative fine for certain
3 violations; establishing a grace period and a late fee;
4 providing definitions; partially eliminating vicarious
5 liability; abolishing dual agents; repealing a requirement
6 relating to the broker's license application; and providing
7 for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 33-28-111(a)(intro), 33-28-118(a),
12 33-28-301(a) by creating new paragraphs (iv) and (v) and by
13 renumbering (iv) through (viii) as (vi) through (x),
14 33-28-302 by creating new subsections (h) through (r) and
15 33-28-304 by creating a new subsection (f) are amended to
16 read:

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2 **33-28-111. Censure of licensee and suspension or**
3 **revocation of license; grounds.**

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5 (a) The commission shall upon a written sworn
6 complaint or may upon its own motion investigate the
7 actions of any broker, associate broker or salesman, impose
8 an administrative fine not to exceed two thousand five
9 hundred dollars (\$2,500.00) for each separate offense and
10 may censure the licensee, place the licensee on probation
11 and set the terms of probation, suspend or revoke any
12 license issued under this act and impose an administrative
13 fine for any of the following:

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15 **33-28-118. License renewals; continuing education;**
16 **payment of fees; effect of failure to renew; inactive**
17 **status.**

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19 (a) Licenses issued under this act may be renewed for
20 successive three (3) year periods. Application for renewal
21 of any license issued prior to this act shall be made
22 before December 31, 1983. Thereafter the application shall
23 be made before December 31 of the third year of the license
24 period. The commission may establish a grace period for

1 license renewal not to exceed sixty (60) days. The
2 commission may establish a late fee for license renewal not
3 to exceed seventy-five dollars (\$75.00).

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5 **33-28-301. Definitions.**

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7 (a) As used in this article:

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9 (iv) "Designated agent" means an employing
10 broker or associate broker or salesman who is designated in
11 writing by an employing broker to serve as a single agent
12 or intermediary for a seller, landlord, buyer or tenant in
13 a real estate transaction. "Designated agent" does not
14 include a real estate brokerage firm that consists of only
15 one (1) licensed natural person;

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17 (v) "Dual agent" means a licensee who with
18 written informed consent of all parties to a real estate
19 transaction is an agent for both the seller and buyer or
20 both the landlord and tenant;

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22 ~~(iv)~~ (vi) "Intermediary" means a broker who
23 assists one (1) or more parties throughout a contemplated
24 real estate transaction with communication and the closing

1 of the real estate transaction without being an agent or
2 advocate for any party to the transaction;

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4 ~~(v)~~ (vii) "Real estate transaction" means any of
5 the activities identified in W.S. 33-28-102(a)(iii),
6 including the sale, lease and management of real property;

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8 ~~(vi)~~ (viii) "Seller" means a person who is
9 attempting to sell or exchange real property and includes
10 landlords as that term is commonly used in the rental,
11 leasing or management of real property;

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13 ~~(vii)~~ (ix) "Seller's agent" means a broker who is
14 authorized to represent and act for the seller in a real
15 estate transaction;

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17 ~~(viii)~~ (x) "Subagent" means a broker authorized
18 to represent and act for another broker in performing
19 brokerage tasks for a principal. The subagent owes the
20 same obligations and responsibilities to the principal as
21 does the principal's broker.

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23 **33-28-302. Relationships between brokers and the**
24 **public.**

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2 (h) If a real estate brokerage firm has more than one
3 (1) licensed natural person, the employing broker or broker
4 associate or salesperson employed or engaged by that
5 employing broker shall be designated to work with the
6 seller, landlord, buyer or tenant as a designated agent.
7 The employing broker may designate more than one (1) of its
8 associates or salespersons to work with a seller, landlord,
9 buyer or tenant.

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11 (j) The brokerage relationship established between
12 the seller, landlord, buyer or tenant and a designated
13 broker, including the duties, obligations and
14 responsibilities of that relationship, shall not extend to
15 the employing broker nor to any other broker employed or
16 engaged by that employing broker who has not been so
17 designated and shall not extend to the firm, partnership,
18 limited liability company, association, corporation or
19 other entity that employs such broker.

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21 (k) A real estate broker may have designated agents
22 working as single agents for a seller or landlord and a
23 buyer or tenant in the same real estate transaction without
24 creating dual agency for the employing real estate broker.

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(m) An individual agent may be designated to work for both a seller or landlord and a buyer or tenant in the same transaction as an intermediary for both, as a single agent for the seller or landlord treating the buyer or tenant as a customer, or as a single agent for a buyer or tenant treating the seller or landlord as a customer, but not as a single agent for both. The applicable designated agent relationship shall be disclosed in writing to the seller or landlord and buyer or tenant in a timely manner pursuant to rules promulgated by the real estate commission.

(n) A designated agent may work with a seller or landlord in one (1) transaction and work with a buyer or tenant in another transaction.

(o) When a designated agent serves as a single agent pursuant to W.S. 33-28-303 or 33-28-304 there shall be no imputation of knowledge to the employing broker who has not been so designated.

(p) The extent and limitations of the agency relationship with the designated agent shall be disclosed

1 to the seller, landlord, buyer or tenant working with that
2 designated agent pursuant to W.S. 33-28-306.

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4 (q) No seller, landlord, buyer or tenant shall be
5 vicariously liable for an agent's acts or omissions that
6 have not been approved, directed or ratified by such
7 seller, buyer, landlord or tenant.

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9 (r) Nothing in this section shall be construed to
10 limit the employing broker's or firm's responsibility to
11 supervise licensees employed by such broker or firm nor to
12 shield such broker or firm from vicarious liability.

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14 **33-28-304. Agent engaged by buyer.**

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16 (f) A broker shall not establish dual agency with any
17 seller, landlord, buyer or tenant.

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19 **Section 2.** W.S. 33-28-106(e)(v) is repealed.

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21 **Section 3.** This act is effective July 1, 2005.

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23 (END)