

CUSTOMER or CLIENT?

The choice is yours
when buying or selling
real estate!

AGENCY LAW IN IDAHO

prepared by the
Idaho Real Estate Commission
to explain basic agency issues and
your rights as a buyer or seller

Effective July 1, 2001

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<http://www2.state.id.us/irec/forms/ree094-Agency.pdf>

When you choose to work with a real estate professional, it is important for you to understand the difference between a broker, a salesperson, or sales associate.

A real estate **broker** is a licensed person who is in charge of the real estate brokerage firm.

A **sales associate or salesperson** is a person licensed with the broker and may only act through that broker. In other words, when you choose to work with any real estate professional, your business relationship is legally with that individual's **broker**.

It is equally important for you to discuss the following representation information with a real estate professional, and to agree on the type of business relationship you will have. Will you be a **customer** or a **client**?

What is a Customer?

A customer receives valuable services from the real estate brokerage (assistance, information, etc.), but is NOT "represented" by it. Every person begins as a customer. *If you do not sign a written listing contract or buyer-broker contract, you will NOT become a client, but will remain a customer.*

As a customer, you can expect the real estate professional ("nonagent") working with you to:

- provide honest information in good faith;
- assist you in preparing offers and helping you close the transaction;
- use reasonable skill and care; and,
- disclose any adverse material facts the salesperson actually knows, or should reasonably have known (for instance, the seller has told the salesperson that the basement leaks every winter).

As a customer, you should NOT expect the real estate professional you are working with to:

- conduct detailed inspections of the property for you or verify information given by the buyer or seller; and,
- keep your bargaining information confidential. In fact, if the real estate professional's brokerage company is **representing** the other party (buyer or seller) in the transaction, and if you tell the salesperson about your willingness to pay more or take less, that representative must give this information to the broker's **client**. Whenever you, as a customer, speak to a real estate professional who **represents** another party in a purchase or sale, you should assume you are talking directly to the other party (buyer or seller).

What is a Client?

A client is a buyer or seller who has signed a **written** listing contract or buyer-broker type contract to be "represented" by a broker. *If there is no written agreement you will NOT become a client!*

This written contract or agreement should answer:

- How will the brokerage be paid and when?
- How long am I obligated under this contract?
- Can I also work with other brokerages during this agreement? Or, what will happen if I sell or buy on my own?
- Am I willing to let this brokerage represent both me and the buyer (or seller)?

A client is represented by the broker and his or her sales associates. If you are "represented" as a client, you can expect the real estate professional to:

- reasonably act to negotiate the best price and terms for you;
- tell you important information the agent knows or should reasonably have known which would influence your decision to

- buy or sell (such as the county's plans to build a freeway exit on the land next door);
- keep information about your bargaining position confidential in the marketplace; and,
 - promote your interests with good faith, honesty and fair dealing and use reasonable skill and care in business dealings with you.

Can the Broker Represent Both Buyer and Seller as Clients? Yes, as a Limited Dual Agent

What is a Limited Dual Agent?

This situation comes up, for example, when a brokerage has your home listed for sale and also represents the buyer. **Both** of you are **clients** of the broker, and yet have different needs. The seller wants the highest price; the buyer wants to pay the lowest price. You do **NOT** have to agree to limited dual representation. It is not the same as having your own agent. If you **DO** agree, you must do so in writing, and your agent will ask you to sign a Consent for Limited Dual Representation. A limited dual agent will still provide most client services. Without your permission, he or she won't reveal to the other party:

- personal information about your motivation to buy or sell;
- that as a buyer you will pay more than the offered price;
- that as a seller you will take less than the listing price; and,
- that you will agree to terms or price other than that listed.

A limited dual agent will avoid conflicting interests of the two clients and will focus on negotiating a sale or purchase that is satisfactory to both. The limited dual agent must use reasonable skill and care, but offers a **limited** type of representation.



Each brokerage shall keep a signed and dated record of a buyer or seller's receipt of the agency disclosure brochure. §54-2085

RECEIPT ACKNOWLEDGED

Your signature below indicates only the **receipt of and agreement to read** the Idaho Real Estate Commission's brochure titled "Agency Law in Idaho".

Signature Date

Signature Date

Terms Defined As They Apply To This Brochure

AGENCY REPRESENTATION - defines by law what duties and obligations are owed by a real estate professional to a **client**.

CLIENT - a buyer or seller of real estate who has a **written agreement** for representation in the transaction.

CUSTOMER - a buyer or seller who is **NOT** represented, but who receives services from a real estate professional.

LIMITED DUAL AGENT - a real estate brokerage which offers specific and limited representation to both a buyer and a seller with their consent.

Real estate licensees in Idaho must give you this brochure at first substantial business contact. Disclosure and duties to a customer or client are defined by the "Idaho Real Estate Brokerage Representation Act" in sections 54-2082 to 54-2094, Idaho Code.

When you sign a real estate Purchase and Sale Agreement, as a buyer or seller; you will be asked to confirm:

- (1) that this brochure was given to you;
- (2) who, if anyone, represented you in the transaction; and,
- (3) that you have read and understand the contents of this brochure.

If you have any questions about the information in this brochure, contact:

Idaho Real Estate Commission
 633 N. 4th Street
 P.O. Box 83720
 Boise, ID 83720-0077
 (208) 334-3285
 Fax (208) 334-2050
 TRS 1-800-377-3529
 website: www2.state.id.us/irec

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