

INTERIM STUDY PROPOSAL 2021-082

1
2 State of Arkansas
3 93rd General Assembly
4 Regular Session, 2021

A Bill

SENATE BILL 559

5
6 By: Senator Beckham

7 Filed with: Arkansas Legislative Council
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE REAL ESTATE LICENSE LAW; AND FOR
11 OTHER PURPOSES.

Subtitle

12
13
14 TO AMEND THE REAL ESTATE LICENSE LAW.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 17-42-108 is amended to read as follows:
21 17-42-108. Disclosure requirement.

22 (a)(1) In every real estate transaction involving a licensee, the
23 licensee shall clearly disclose to all parties or to their agents which party
24 ~~or parties~~ he or she is representing.

25 (2) A licensee may ~~represent~~ act as an intermediary under § 17-
26 42-320 to more than one (1) party to a real estate transaction pursuant to
27 and subject to rules of the Arkansas Real Estate Commission.

28 (b) The timing, method, and other requirements of ~~such a the~~
29 disclosure required by subsection (a) of this section shall be established by
30 the commission, and the commission shall also determine the consequences of
31 failure to make disclosure in accordance with ~~such the~~ the requirements.
32

33 SECTION 2. Arkansas Code § 17-42-311(a)(8), concerning prohibited
34 acts, conduct, and practices by a licensee, is amended to read as follows:

35 (8) Acting for more than one (1) party in a transaction ~~without~~
36 ~~the knowledge of all parties for whom he or she acts~~ or accepting a

1 commission or valuable consideration for the performance of any of the acts
2 specified in this chapter from any person except the licensed principal
3 broker under whom he or she is licensed;

4
5 SECTION 3. Arkansas Code Title 17, Chapter 42, Subchapter 3, is
6 amended to add an additional section to read as follows:

7 17-42-320. Licensee acting as intermediary – Duties.

8 (a) A licensee may act as an intermediary between more than one (1)
9 party to a real estate transaction if the:

10 (1) Licensee obtains written consent from each party for the
11 licensee to act as an intermediary in the real estate transaction; and

12 (2) Written consent of the parties states the source of any
13 expected compensation to the licensee.

14 (b) A representation agreement that authorizes a licensee to act as an
15 intermediary is sufficient to establish written consent required by
16 subsection (a) of this section if the representation agreement specifies in
17 conspicuous bold or underlined print that a licensee acting as an
18 intermediary shall not:

19 (1) Disclose to the buyer that the seller will accept a price
20 less than the asking price, unless instructed to do so in a separate writing
21 by the seller;

22 (2) Disclose to the seller that the buyer will pay a price
23 greater than the price submitted in a written offer to the seller, unless
24 instructed to do so in a separate writing by the buyer;

25 (3) Disclose any confidential information or any information a
26 party specifically instructs the licensee in writing not to disclose, unless
27 the:

28 (A) Licensee is instructed to do so in a separate writing
29 by the respective party;

30 (B) Licensee is required to disclose the information under
31 this chapter or by court order; or

32 (C) Information materially relates to the condition of the
33 property;

34 (4) Treat a party to a real estate transaction dishonestly; or

35 (5) Act in violation of this chapter.

1 (c) A licensee acting as an intermediary under subsection (a) of this
2 section shall act fairly and impartially to all parties he or she represents
3 in a real estate transaction.

4
5
6 Referred requested by the Arkansas Senate

7 Prepared by: MBM/KFW

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36