

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

HOUSE BILL 1853

5 By: Representatives J. Moore, Hawk  
6 By: Senators C. Penzo, J. Dotson, Hester  
7

## For An Act To Be Entitled

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

15 TO AMEND THE LAW CONCERNING AGENCY  
16 RELATIONSHIP AND DUTIES RELATED TO REAL  
17 ESTATE LICENSES; AND TO CLARIFY THE  
18 OBLIGATIONS OF DUAL AGENCY.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 17-42-316 is amended to read as follows:  
24 17-42-316. Agency relationship and duties generally.

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

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

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

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



1 obligation to:

2 (A) Use reasonable efforts to further the interest of the  
3 client;

4 (B) Exercise reasonable skill and care in representing the  
5 client and carrying out the responsibilities of the agency relationship;

6 (C) Perform the terms of the written agency agreement;

7 (D) Follow lawful instructions of the client unless doing  
8 so would expose the licensee to liability from another party to a contract,  
9 lease, or rental agreement;

10 (E) Perform all duties specified in this section in a  
11 manner that demonstrates loyalty to the interests of the client;

12 (F) Comply with all requirements of this section and other  
13 applicable statutes and rules;

14 (G) Disclose to the client material facts of the  
15 transaction that the licensee is aware of or should be aware of in the  
16 exercise of reasonable skill and care and that are not confidential  
17 information under a current or prior agency or dual agency relationship;

18 (H) Advise the client to obtain expert advice concerning  
19 material matters when necessary or appropriate;

20 (I) Account in a timely manner for all moneys and property  
21 received in which the client has or may have an interest;

22 (J)(i) ~~Keep confidential all confidential information~~  
23 Except as provided in subdivision (b)(2)(J)(ii) of this section, refrain from  
24 disclosing any confidential information.

25 (ii) The disclosure of confidential information may  
26 be limited by contract when a licensee is an authorized dual agent under  
27 subdivision (b)(1)(B) of this section, including without limitation  
28 confidential information from or concerning the client that may materially  
29 compromise the negotiating position of the client, unless disclosure is  
30 required by law or is authorized in writing by the client; and

31 (K) Refrain from disclosing confidential information to a  
32 licensee who is not an agent of the client.

33 (c) ~~The~~ Except as provided in subsection (b)(1)(B) and subdivision  
34 (b)(2)(J)(ii) of this section, the duties required of a licensee under this  
35 section may not be waived by a client.

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