



## Consumer Information Statement (CIS) for Consumers Seeking to Purchase or Sell Residential Property Designed For Use by 1-4 Families

**Delaware law requires real estate salespersons and brokers to provide you this CIS at the earlier of your first scheduled appointment or the first showing of a property. If your first contact is via fax or email, this CIS must be supplied with any other papers sent by electronic transmission.**

**You must read and complete this CIS before you list your home for sale or go with a salesperson or broker to view homes to buy.**

### **Customer first, then Client**

You are a customer when you first contact a broker or salesperson. Once you have completed and signed this CIS, you become a client of that salesperson or broker, and he or she can start working for you.

### **Brokers and Salespersons as Statutory Agents**

Under Delaware law, a real estate broker or salesperson is a statutory agent of yours unless you elect, in a written agreement, to enter into a common law agency relationship. A statutory agent is an independent contractor. He or she is NOT your fiduciary, but is an agent with duties specified by Delaware statutory law. Common law agency is explained on page 2.

### **Important Terms:**

**Client** -The member of the public who is the principal in the statutory agency relationship.

**Customer** - A member of the public who is working with a licensee, but who has not yet entered into an agency relationship.

**Delaware Real Estate Commission** – The regulatory body which issues licenses to brokers and salespersons under Delaware law (licensee), and which hears complaints filed by the public with respect to licensees. License law and applicable rules and regulations are available on the Real Estate Commission’s website at [www.dpr.delaware.gov](http://www.dpr.delaware.gov)

**Designated Agent** – An independent contractor working with you under statutory agency. He or she may be a broker or salesperson.

**Designated Subagent** –A licensee working for you under statutory agency who is employed by a different company than your designated agent.

**Dual Agency** – Examples:

1) If the same salesperson represents both the buyer and seller in a transaction, then that salesperson, his or her broker of record and brokerage organization are all dual agents.

2) If the buyer and seller are represented by two different salespeople working for the same broker of record, then the broker of record and the brokerage organization are both dual agents, but the salespersons are not.

3) If the buyer and seller are represented by two different salespeople working for different brokers of record under the same brokerage organization, then the brokerage organization is a dual agent.

**Statutory Agent** – An agent with duties under Delaware statutory law, not common law fiduciary duties. The agent is a statutory agent unless specifically hired as a common law agent as explained on page 2.

### **CONFIDENTIALITY:**

A broker or salesperson has a duty of confidentiality to all parties from the moment of your first contact. **A Broker or Salesperson MAY NOT disclose the following information UNLESS the affected party has provided his or her informed consent:**

1. The buyer is willing to pay more for the property than what has been offered.
2. The seller is willing to accept less than the asking price.
3. The seller or buyer will agree to terms other than those offered.

4. Any personal motivations for any party to a transaction, **IF** that party has requested that the information be kept confidential.
5. Other confidential information, **UNLESS** disclosure is required by law, or **UNLESS** failure to disclose would be fraud or intentional misrepresentation.
6. Facts or suspicions regarding circumstances which may psychologically impact or stigmatize property under Section 2930 of Title 24 of Delaware law unless by law it must be disclosed.
7. Facts or suspicions that someone is a registered sex offender under Delaware law. Information regarding registered sex offenders is available from the Delaware State Police at [www.state.de.us/dsp/sexoff/index.htm](http://www.state.de.us/dsp/sexoff/index.htm).

#### **IMPORTANT INFORMATION:**

1. The client and his or her broker and designated agent are not responsible for the wrongful actions of the other unless they had actual knowledge of the wrongful act, error, omission or misrepresentation; however, the person who was wrong is still responsible.
2. Notice given to a designated agent is considered notice to that designated agent's client. **Notice given to anyone else in the licensee's office is not considered notice to that client.**
3. Put it in writing! Statements and negotiations by a party are not binding until they are in writing and signed by the party.

#### **Brokers and salespersons MUST:**

1. Comply with all applicable law, including performing the duties required of him or her by the statute and rules and regulations of the Delaware Real Estate Commission.
2. Follow all other applicable laws, including laws governing fair housing and civil rights.
3. Perform as required by the terms of any written brokerage agreement, if one exists.
4. Exercise reasonable skill and care as a broker or salesperson.
5. Advise you to obtain expert advice on material matters outside his or her expertise.
6. Account to you in a timely manner for all money and property received.
7. Help to inform the parties regarding the progress of the transaction.
8. Disclose adverse material facts or defects actually known by the broker or salesperson.
9. Put any compensation agreement in writing.

#### **Brokers and Salespersons MAY:**

1. List similar properties for sale.
2. Show clients properties not owned by their other clients.
3. Show the same property one client is interested in to one or more other clients.
4. Provide information generally available to licensees, such as recent sales activity.
5. Give advice and opinions throughout the real estate transaction.
6. Help you prepare offers and counteroffers and present them in a timely manner so long as the forms used advise the parties that they may seek legal advice prior to signing.
7. Develop negotiating strategies or options for how to proceed with a transaction.
8. Perform ministerial tasks.
9. Cooperate with other brokers or salespersons.
10. Provide clients with relevant information and advice when requested.
11. Transmit financial information provided to them. Although they do not independently verify the accuracy or completeness of this information, they **MAY NOT** transmit financial information they know is false.

#### **Common Law Agency**

**You should obtain disclosure of the potential legal liability and financial risks of common law agency and read and understand those risks before you enter into a common law agency relationship.**

Under Delaware law, salespersons and brokers may not be common law agents in transactions involving 1-4 family residential property unless:

- (1) The common law relationship is established in writing; and
- (2) The company policy of the Brokerage Organization is to represent only the seller or buyer as a single agent for each transaction and never as a dual agent. This means that a property listed for sale could not be sold to a buyer represented by that Brokerage Organization, and a buyer represented by that Brokerage Organization could not buy a property listed for sale with that Brokerage Organization.

1) Client(s) or Customer(s) \_\_\_\_\_

2) Licensee \_\_\_\_\_

3) Brokerage Office name and registered phone #:

\_\_\_\_\_

4) Relationship:

I am the **SELLER**. The licensee identified above is:

- my designated seller's agent or subagent **only**;
- my designated seller's agent and a dual agent, if I am selling my property to a buyer whom the agent also represents;\*
- the Buyer's agent and **NOT** my agent.

I am the **BUYER**. The licensee identified above is:

- my designated buyer's agent **only**;
- my designated buyer's agent and a dual agent, if I am buying a property from a seller whom the agent also represents;\*
- the Seller's agent or subagent and **NOT** my agent.

**\*IMPORTANT:** Whenever a dual agency relationship exists, the designated agent's broker of record and the brokerage organization may also be acting as dual agents, as explained in the Important Terms section of this CIS.

5) I acknowledge that I have been given an opportunity to read this CIS and I am entering into the relationship indicated above in section 4.

6) I am only obligated to pay a fee if I enter into a separate written brokerage agreement (for example, a listing or buyer agency agreement) signed by me.

\_\_\_\_\_ Date \_\_\_\_\_

Signature of Seller or Buyer

\_\_\_\_\_ Date \_\_\_\_\_

Signature of Seller or Buyer

\_\_\_\_\_ Date \_\_\_\_\_

Signature of Broker or Licensee

**CIS -as approved by DREC effective 7/11 /07**