

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1387/5dn
CTS:lmk:jf

September 21, 2005

Representative Wieckert:

This is a redraft of LRB-1387/4. Please review it carefully to ensure it is consistent with your intent, and note the following:

1. I have not added to proposed s. 452.134 language contained in the drafting instructions that requires a broker to provide written notice of a client's ability to withdraw from designated agency at any time. Because the draft already requires a broker to provide to a client a written disclosure form that contains this information, the language in the drafting instructions is redundant.
2. For clarity, I have made minor changes to the explanation of multiple representation relationships and designated agency in the client disclosure form. Is this okay? Also, I have altered the second option in the portion of the client disclosure form in which the client indicates consent to designated agency and multiple representation relationships. Based on the substantive law created in the draft, it seemed necessary that the second option clarify that the client is consenting to multiple representation relationships but not to designated agency. Alternatively, the draft could present just two options: 1) Do you consent to multiply representation relationships? 2) If you consent to multiple representation relationships, do you consent to designated agency?
3. The client disclosure form indicates that a broker is required to disclose in an agency agreement "the commission fees" that the client may owe. Is "commission fees" correct? Also, to my knowledge, neither current law nor the draft require this disclosure in the agency agreement. If it is required by DRL by rule, it is problematic to include this language in a statutorily-required disclosure. If DRL were to change the rule, the disclosure form would be incorrect until the statutes were amended to revise the text of the required disclosure.
4. Because this draft specifies a broker's duties in a multiple representation relationships in a new section, proposed s. 452.134, it appears unnecessary to retain current s. 452.137 ("Brokers providing services to more than one client in a transaction.") This draft therefore repeals current s. 452.137. Is this okay?

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