LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 477

BY BUSINESS COMMITTEE

AN ACT
RELATING TO REAL ESTATE LICENSURE; AMENDING SECTION 54-2050, IDAHO CODE, TO PROVIDE THAT A REAL ESTATE SALES ASSOCIATE WHO OBTAINS A SIGNED BROKERAGE REPRESENTATION AGREEMENT SHALL PROVIDE A COPY OF SUCH AGREEMENT TO THE DESIGNATED BROKER, TO REVISE A PROVISION REGARDING BROKERAGE REPRESENTATION AGREEMENTS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-2051, IDAHO CODE, TO PROVIDE THAT A REAL ESTATE SALES ASSOCIATE SHALL SUBMIT CERTAIN SIGNED DOCUMENTS TO A BROKER AND PARTIES PRINCIPAL TO A REAL ESTATE TRANSACTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2050, Idaho Code, be, and the same is hereby amended to read as follows:

54-2050. BROKERAGE REPRESENTATION AGREEMENTS -- REQUIRED ELEMENTS. All real estate brokerage representation agreements, whether with a buyer or seller, must be in writing in the manner required by section 54-2085, Idaho Code, and must contain the following contract provisions:
(1) Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions:
   (a) Conspicuous and definite beginning and expiration dates;
   (b) A description of the property to be bought or sold which sufficiently identifies the property so as to evidence an understanding of the parties as to the location of the real property. Nothing in this section shall be construed to require a legal description nor a metes and bounds description of the property. Provided further, a representation agreement shall not be held invalid for lack of a legal description or a metes and bounds description;
   (c) Price and terms;
   (d) All fees or commissions; and
   (e) The signature of the owner of the real estate or the owner's legal, appointed and duly qualified representative and the date of such signature.

(2) Buyer representation agreements. Each buyer representation agreement, whether exclusive or nonexclusive, must contain the following provisions:
   (a) Conspicuous and definite beginning and expiration dates;
   (b) All financial obligations of the buyer or prospective buyer, if any, including, but not limited to, fees or commissions;
   (c) The manner in which any fee or commission will be paid to the broker; and
   (d) Appropriate signatures and their dates.
(3) Prohibited provisions and exceptions -- Automatic renewal clauses. No buyer or seller representation agreement shall contain a provision requiring the party signing the agreement to notify the broker of the party's intention to cancel the agreement after the definite expiration date, unless the representation agreement states that it is completely nonexclusive and it contains no financial obligation, fee or commission due from the party signing the agreement.

(4) Copies required. A sales associate who obtains a signed brokerage representation agreement of any kind shall provide a true and legible copy of such representation agreement to the designated broker or broker's office prior to the end of the next business day.

(5) Copies required. A broker or salesperson who obtains a written signed brokerage representation agreement of any kind shall, at the time of securing such agreement, give the person or persons signing such agreement a legible, signed, true and correct copy thereof. To the extent the parties have agreed in writing, copies that are electronically generated or transmitted, faxed or delivered in another method shall be deemed true and correct.

(56) Electronically generated agreements. To the extent the parties have agreed in writing, brokerage representation agreements with a buyer or seller that are electronically generated or transmitted, faxed or delivered in another method shall be deemed true and correct and enforceable as originals.

SECTION 2. That Section 54-2051, Idaho Code, be, and the same is hereby amended to read as follows:

54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as promptly as practicable, tender to the seller every written offer to purchase obtained on the real estate involved, up until time of closing. A purchase and sale agreement signed by the prospective buyer shall be deemed in all respects an offer to purchase.

(2) Immediately upon receiving any offer to purchase signed and dated by the buyer and any consideration, a broker or salesperson shall provide a copy of the offer to purchase to the buyer as a receipt.

(3) Upon obtaining a properly signed and dated acceptance of an offer to purchase, the broker or sales associate shall promptly deliver true and legible copies of such accepted offer any document signed by a buyer or seller, a sales associate shall provide a true and legible copy of such document to the designated broker or broker's office prior to the end of the next business day. If the document is a fully executed purchase and sale agreement, counter offer, or addendum, such sales associate shall also provide a true and legible copy of such document to both the buyer and the seller.

(4) The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements:

(a) All terms and conditions of the real estate transaction as directed by the buyer or seller;

(b) The actual form and amount of the consideration received as earnest money;
(c) The name of the responsible broker in the transaction, as defined in section 54-2048, Idaho Code;
(d) The "representation confirmation" statement required in section 54-2085(4), Idaho Code, and, only if applicable to the transaction, the "consent to limited dual representation" as required in section 54-2088, Idaho Code;
(e) A provision for division of earnest money retained by any person as forfeited payment should the transaction not close;
(f) All appropriate signatures and the dates of such signatures; and
(g) A legal description of the property.
(5) All changes made to any offer to purchase or other real estate purchase agreement shall be initialed and dated by the parties to the transaction.