

Van Lewis

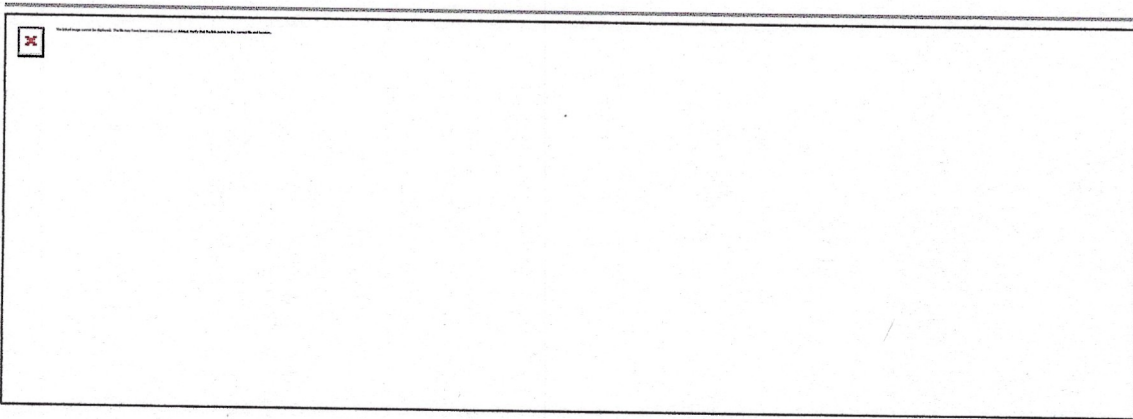
From: Division of Real Estate <DORA.Colorado.RealEstate@public.govdelivery.com>
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Subject: Real Estate Broker Advisory: Signed Listing Agreements REQUIRED By New Law

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Real Estate Broker Advisory

Signed Listing Agreements REQUIRED By New Law



August 12, 2026, is the effective date for many different laws that were enacted during the 2026 legislative session. Some of these laws directly affect brokers and brokerage firms.

For many years, brokers could offer their clients relatively simple choices for how they could work together. Brokers understood that to be a single-agent, a written agreement with the consumer was required. For a transaction-broker relationship, NO written agreement was required. **That foundation in Colorado real estate practice is NO MORE.**

As a result of a bill presented by the Department of Law, HB26-1426, the notion that a broker could operate without a written agreement is gone. Effective today, August 12, 2026, section 12-10-403, C.R.S. now states clearly that *"a broker shall establish either a transaction-broker or a single-agency relationship through a written agreement between the broker and the party or parties to be represented by the broker."* This

means that before a broker performs any licensed duties, a written listing agreement **MUST** be executed by the parties.

What are licensed duties?

Before discussing a broker's duties, it is important to begin with the definition of a "real estate broker". This can be found in section 12-10-201(6), C.R.S. The definition is thorough, offering both acts that do qualify as broker activities and a lengthy list of acts that do not qualify as broker activities. Every licensee should review this section to better understand the examples and situations discussed.

Next, licensed duties are set forth clearly in three different sections of the real estate practice act. Those sections are as follows:

- Section 12-10-404: Single Agent Engaged by Seller or Landlord
- Section 12-10-405: Single Agent Engaged by Buyer or Tenant
- Section 12-10-407: Transaction Broker

Although these three sections have remained entirely unchanged since October 1, 2019, when the real estate practice act was recodified by HB19-1172, a common misconception held by many licensees is that someone must have a license to show a property or hold an open house. This is incorrect. ***Licensed duties do not include showings, holding open houses, or completing Comparative Market Analyses ("CMAs").***

What Type of Written Agreement is Required?

As discussed above, in order to establish a relationship, HB26-1426 requires a written agreement, but not just any written agreement will suffice. The written agreement must establish either a transaction-broker or a single-agency relationship. It also "must specify and conspicuously disclose the amount or rate of any compensation to be paid to the broker, and the broker shall complete such written agreement before performing any activities described in section 12-10-201(6)(a), C.R.S."

It is for these reasons that every licensee must review the definition of a real estate broker and understand it. If you are unsure if any act requires a license, they should consult with their employing broker or their legal counsel immediately.

The Commission-approved listing contacts are specifically tailored to clearly and conspicuously define the relationship between the broker and

the consumer, whether that consumer is a buyer, seller, landlord, or tenant. For example, the Exclusive Right-To-Buy Listing Contract:

- Defines who the parties are
- Defines the relationship between the parties as an agency relationship or a transaction-broker relationship
- Defines the scope of the agreement
- Defines the listing period, or term of the agreement
- Defines the Brokerage Duties
- Identifies how and when compensation is due, if any
- Defines a holdover period and when that may apply
- Provides various consumer-centric disclosures including but not limited to wire fraud, nondiscrimination, a mediation clause, an attorney fees provision, notice provision, and a choice of law provision.

These details are imperative to establishing a relationship with a consumer. It is important for licensees to understand that an educated and informed consumer serves the best interests of the broker, the brokerage firm, and the consumer alike. *In contrast to the Exclusive Right-To-Buy Listing Contract*, the Buyer's Broker's Compensation Agreement only states that compensation is due, how much is due, and under what circumstances it is due. It does not describe the activities or duties of the broker. It does not establish a relationship.

In short, the Buyer's Broker's Compensation Agreement located at the end of the Broker's Disclosure to Buyer is not sufficient to establish a brokerage relationship.

Only a Listing Contract is sufficient to establish a relationship in writing and to comply with HB26-1426.

For more information on this fundamental change to the law, please consider viewing the most recent Division Webinar Series video on this law where Director Waters discusses this legal change. You can view it here:

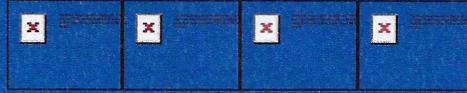
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