

543B.5 Other definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Agency*" means a relationship in which a real estate broker acts for or represents another by the other person's express authority in a transaction.
2. "*Agency agreement*" means a written agreement between a broker and a client which identifies the party the broker represents in a transaction.
3. "*Appointed agent*" means that affiliated licensee who is appointed by the designated broker of the affiliated licensee's real estate brokerage agency to act solely for a client of that brokerage agency to the exclusion of other affiliated licensees of that brokerage agency.
4. "*Branch office*" means a real estate broker's office other than a principal place of business.
5. "*Broker associate*" means a person who has a broker's license but is licensed under, and employed by or otherwise associated with, another broker as a salesperson.
6. "*Brokerage*" means the business or occupation of a real estate broker.
7. "*Brokerage agreement*" means a contract between a broker and a client which establishes the relationship between the parties as to the brokerage services to be performed.
8. "*Brokerage services*" means those activities identified in sections 543B.3 and 543B.6.
9. "*Client*" means a party to a transaction who has an agency agreement with a broker for brokerage services.
10. "*Customer*" means a consumer who is not being represented by a licensee but for whom the licensee may perform ministerial acts.
11. "*Designated broker*" means a licensee designated by a real estate brokerage agency to act for the agency in conducting real estate brokerage services.
12. "*Inactive license*" means either a broker or salesperson license certificate that is on file with the real estate commission in the commission office and during which time the licensee is precluded from engaging in any of the acts of this chapter.
13. "*Licensee*" means a broker or a salesperson licensed pursuant to this chapter.
14. "*Material adverse fact*" means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction, or affects or would affect the party's decision about the terms of the contract or agreement.

For purposes of this subsection, "*adverse fact*" means a condition or occurrence that is generally recognized by a competent licensee as resulting in any of the following:

- a. Significantly and adversely affecting the value of the property.
- b. Significantly reducing the structural integrity of improvement to real estate.
- c. Presenting a significant health risk to occupants of the property.

15. *"Negotiate"* means to act as an intermediary between the parties to a transaction, and includes any of the following acts:

- a. Participating in the parties' discussion of the terms of a contract or agreement concerning a transaction.
- b. Completing, when requested by a party, appropriate forms or other written record to document the party's proposal in a manner consistent with the party's intent.
- c. Presenting to a party the proposals of other parties to the transaction and informing the party receiving a proposal of the advantages and disadvantages of the proposal.

16. *"Party"* means a person seeking to sell, exchange, buy, or rent an interest in real estate, a business, or a business opportunity. *"Party"* includes a person who seeks to grant or accept an option to buy, sell, or rent an interest in real estate.

17. *"Person"* means an individual, partnership, association, or corporation.

18. *"Regular employee"* means a person whose compensation is fixed in advance, who does not receive a commission, who works exclusively for the owner, and whose total compensation is subject to state and federal withholding.

19. *"Salesperson"* means a person who is licensed under, and employed by or otherwise associated with, a real estate broker, as a selling, renting, or listing agent or representative of the broker.

20. *"Transaction"* means the sale, exchange, purchase, or rental of, or the granting or acceptance of an option to sell, exchange, purchase, or rent an interest in real estate.

[C31, 35, § 1905-c25; C39, § **1905.22**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 117.5; 81 Acts, ch 54, § 3]

C93, § 543B.5

95 Acts, ch 17, §1; 95 Acts, ch 170, §4