

543B.62 Duties and liabilities of licensees and parties.

1. Except as provided in [subsection 2](#), the duties of a licensee specified in [this chapter](#) or in rules adopted pursuant to [this chapter](#) supersede any fiduciary duties of a licensee to a party to a transaction based on common law principles of agency to the extent that those common law fiduciary duties are inconsistent with the duties specified in [this chapter](#) or rules adopted pursuant to [this chapter](#).

2. [This section](#) shall not be construed to modify a licensee's duty under common law as to negligent or fraudulent misrepresentation of material information.

3. *a.* A licensee who is providing brokerage services to a client and who retains another licensee to provide brokerage services to that client is not liable for misrepresentation made by the other licensee, unless the retaining licensee knew or should have known of the other licensee's misrepresentation or the other licensee is repeating a misrepresentation made to the other licensee by the retaining licensee.

b. A broker is responsible for supervising a salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate does not relieve the broker, salesperson, or broker associate of the duties and responsibilities established by [this chapter](#). A salesperson or broker associate shall keep the employing broker fully informed of all activities being conducted on behalf of the broker and any other activities that might impact on the broker's responsibilities. However, the failure of the salesperson or broker associate to keep the employing broker fully informed does not relieve the broker of the duties and responsibilities established by [this chapter](#).

4. *a.* A licensee providing brokerage services to a client shall not be in possession of the client's real estate. A licensee may enter upon the premises of a client's real estate to fulfill the licensee's obligations pursuant to [section 543B.3](#), [section 543B.6](#), or pursuant to a written agreement between the licensee and the client.

b. A licensee has no duty of care with regard to a client's real estate or with regard to a person entering, viewing, or traversing upon the premises of a client's real estate other than to fulfill the licensee's obligations pursuant to [section 543B.3](#), [section 543B.6](#), or pursuant to a written agreement between the licensee and the client.

c. A licensee providing brokerage services to a client shall not be liable for damage to the client's real estate or for any physical injury, accident, or harm to a person entering, viewing, or traversing upon the premises of a client's real estate unless the licensee is the direct and proximate cause of the damage, injury, accident, or harm.

d. A client shall be responsible for the care, maintenance, repair, condition, and safety of the client's real estate that is being offered to sell, exchange, buy, or rent to a person.

[95 Acts, ch 17, §8](#); [2023 Acts, ch 68, §1](#)

NEW subsection 4