

193E—12.7(543B) Appointed agent procedures and disclosure.

12.7(1) Prior to entering into a listing or brokerage agreement, a real estate brokerage shall notify a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees within the real estate brokerage that will be acting as appointed agents of that client to the exclusion of all other affiliated licensees within the real estate brokerage. The appointed agent disclosure shall include, at a minimum, the following provisions:

- a.* The name of the appointed agent(s);
- b.* A statement that the appointed agent will be representing the client as the client's agent and will owe the client duties as set forth in Iowa Code section 543B.56, subsections 1 and 2;
- c.* A statement that the brokerage may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- d.* A statement that other affiliated licensees may be appointed during the term of the brokerage agreement should the appointed agent not be able to fulfill the terms of the brokerage agreement or as by agreement between the designated broker and the client. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any of the duties owed to the client. At any time of the appointment of the new or additional agents, the designated broker must comply with the provisions of this rule; and
- e.* A provision for the client to consent or not consent in writing to the appointment.

12.7(2) Implementation of the appointed agent within a brokerage relationship. Any broker may elect to offer the appointed agent relationship. The broker shall not implement the use of the relationship until such time as the broker has fully complied with all Iowa laws and commission rules.

a. The broker shall not, without the written consent of the clients, appoint an affiliated licensee to act as an appointed agent in any transaction involving a written exclusive single agent or dual agent brokerage agreement that was in effect prior to the broker's implementing the appointed agent relationship.

b. If the client of an appointed agent wants to consider a property on which the broker has a prior existing exclusive single agent or dual agent brokerage agreement, the broker shall not allow the use of the appointed agent without first obtaining the written consent of that particular seller or landlord to the appointed agent relationship.

c. If the written consent of the client to allow the appointed agency relationship is not given or cannot be obtained, the broker shall refer the client of the appointed agent to another broker for representation at least for the purpose of considering such property.

12.7(3) A designated broker shall not be considered to be a dual agent solely because the designated broker makes an appointment under this rule, except that any licensee who, with prior written consent of all parties, personally represents both the seller and buyer or both the landlord and tenant in a transaction shall be a dual agent and shall be required to comply with the rules governing dual agents.

12.7(4) Appointed agent and designated broker responsibilities.

a. A designated broker appointing an affiliated licensee(s) to act as an agent of a client shall take ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.

b. An appointed agent may disclose to the brokerage's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information shall be treated as such by the designated broker or other specified representative of the broker and shall not be disclosed unless otherwise required by Iowa law and related commission rules or requested or permitted in writing by the client who originally disclosed the confidential information.

c. If a designated broker elects to use the appointed agent within a firm authority set forth in Iowa Code section 543B.59, and when the affiliated licensee appointed also acts in a supervisory capacity under the designated broker, such as branch managers, sales managers and the like, these appointed licensees may be treated in the same manner as the designated broker for purposes of determining dual

agency under Iowa Code section 543B.59, subsection 2, only if the designated broker authorizes and provides for such supervisory positions in the written company policy.

(1) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord in a transaction.

(2) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a buyer or tenant in a transaction.

(3) A licensee in a supervisory capacity that is authorized and appointed to supervise and assist licensees appointed to represent a seller or landlord, or buyer or tenant, exclusively, shall have the same duties, obligations, and responsibilities as the designated broker.

(4) The use of an authorized appointed agent shall not relieve the designated broker of duties, obligations, and responsibilities required by law or rules.

12.7(5) Licensee's duty to designated broker or designee. A licensee shall keep the brokerage's designated broker or that broker's designee fully informed of all activities conducted on behalf of the brokerage and shall notify the designated broker or that broker's designee of any other activities that might impact on the responsibility of the designated broker or that broker's designee.