

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 456

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO REAL ESTATE; AMENDING SECTION 54-2050, IDAHO CODE, TO REQUIRE  
2 THAT A REAL ESTATE SALES ASSOCIATE SHALL PROVIDE A COPY OF CERTAIN DOC-  
3 UMENTS TO A DESIGNATED BROKER BY A CERTAIN TIME AND TO MAKE A TECHNICAL  
4 CORRECTION; AND AMENDING SECTION 54-2051, IDAHO CODE, TO REQUIRE THAT A  
5 REAL ESTATE SALES ASSOCIATE SHALL PROVIDE A COPY OF CERTAIN DOCUMENTS TO  
6 A DESIGNATED BROKER BY A CERTAIN TIME.  
7

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

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

11 54-2050. BROKERAGE REPRESENTATION AGREEMENTS -- REQUIRED ELE-  
12 MENTS. All real estate brokerage representation agreements, whether with  
13 a buyer or seller, must be in writing in the manner required by section  
14 54-2085, Idaho Code, and must contain the following contract provisions:

15 (1) Seller representation agreements. Each seller representation  
16 agreement, whether exclusive or nonexclusive, must contain the following  
17 provisions:

18 (a) Conspicuous and definite beginning and expiration dates;

19 (b) A description of the property to be bought or sold which suffi-  
20 ciently identifies the property so as to evidence an understanding  
21 of the parties as to the location of the real property. Nothing in  
22 this section shall be construed to require a legal description, nor  
23 a metes and bounds description of the property. Provided further, a  
24 representation agreement shall not be held invalid for lack of a legal  
25 description or a metes and bounds description;

26 (c) Price and terms;

27 (d) All fees or commissions; and

28 (e) The signature of the owner of the real estate or the owner's legal,  
29 appointed and duly qualified representative, and the date of such sig-  
30 nature.

31 (2) Buyer representation agreements. Each buyer representation agree-  
32 ment, whether exclusive or nonexclusive, must contain the following provi-  
33 sions:

34 (a) Conspicuous and definite beginning and expiration dates;

35 (b) All financial obligations of the buyer or prospective buyer, if  
36 any, including, but not limited to, fees or commissions;

37 (c) The manner in which any fee or commission will be paid to the broker;  
38 and

39 (d) Appropriate signatures and their dates.

40 (3) Prohibited provisions and exceptions -- Automatic renewal clauses.  
41 No buyer or seller representation agreement shall contain a provision re-  
42 quiring the party signing the agreement to notify the broker of the party's

1 intention to cancel the agreement after the definite expiration date, un-  
 2 less the representation agreement states that it is completely nonexclusive  
 3 and it contains no financial obligation, fee or commission due from the party  
 4 signing the agreement.

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

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

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

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

23 54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as  
 24 promptly as practicable, tender to the seller every written offer to pur-  
 25 chase obtained on the real estate involved, up until time of closing. A pur-  
 26 chase and sale agreement signed by the prospective buyer shall be deemed in  
 27 all respects an offer to purchase.

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

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

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

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

44 (b) The actual form and amount of the consideration received as earnest  
 45 money;

46 (c) The name of the responsible broker in the transaction, as defined in  
 47 section 54-2048, Idaho Code;

48 (d) The "representation confirmation" ~~statement~~ and acknowledgment of  
 49 disclosure required in section 54-2085(4), Idaho Code, and, only if ap-

1 plicable to the transaction, the "consent to limited dual representa-  
2 tion" and assigned agency as required in section 54-2088, Idaho Code;

3 (e) A provision for division of earnest money retained by any person as  
4 forfeited payment should the transaction not close;

5 (f) All appropriate signatures and the dates of such signatures; and

6 (g) A legal description of the property.

7 (5) All changes made to any offer to purchase or other real estate pur-  
8 chase agreement shall be initialed and dated by the parties to the transac-  
9 tion.