



# WASHINGTON REALTORS®

December 7, 2022

To: Washington REALTORS® Board of Directors  
2022 Local Association Presidents  
2023 Local Association Presidents  
Local Association Executives

You may have received emails from Doug Tingvall questioning the wisdom of Washington REALTORS® support for a bill to amend the Agency Law. We wanted to provide you with background information explaining the process used to reach conclusions along with answers to questions regarding why the legislation is important.

WR has been aware of developments within the real estate brokerage community, at a national level, since at least 2019. These legal and consumer issues implicate our state's agency law, which has not substantially changed in nearly 30 years. Those developments include class action lawsuits and regulatory investigations among other things. The attached article offers greater detail.

In early 2022, WR President Cheri Daniels formed a presidential advisory group (PAG) to determine whether WR should promote changes to law, regulations or practices to protect the Washington real estate community from potential liability and foster better delivery of real estate brokerage services to the public. The PAG consisted of 30 members who reflect the diversity of Washington's real estate community. The PAG heard many perspectives from within Washington State and around the country. The PAG recommendations resulted in a full endorsement by NAR General Counsel Katie Johnson.

WR also conducted a membership-wide survey gathering input from REALTOR® members. At our Fall Business Conference, the PAG's conceptual recommendations were presented numerous times to committee members who viewed the work positively. WR released a video series, receiving more than 5,000 views, discussing the work of the PAG. WR held a comprehensive Town Hall and invited all opinions to be heard. WR solicited the advice of industry lawyers, who, with a single exception, support amending the Agency Law. Suffice to say, WR put the issue through a rigorous and transparent process before WR's leadership concluded that WR should support an amendment of the Agency Law.



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Why? Why is it important to amend the Agency Law and what are the specific proposals for amendment? Attached is a one-page analysis summarizing the amendments WR will seek. The bill language is currently being drafted by all industry lawyers who choose to participate.

If the effort is successful, the Agency Law will require all brokers to have an agency agreement before compensation is earned. This is already the law with respect to listing brokers. However, because there is no corresponding requirement for buyer brokers to enter a written agreement, few do. Without a written agreement, there is room for uncertainty regarding representation and how the broker will be compensated. This has left countless brokers empty handed, with no compensation, after providing months of service to a buyer. Moreover, the buyer often has no idea how or how much the buyer's broker is compensated or that the buyer actually funded broker's compensation through the purchase price. This lack of consumer knowledge is central to litigation elsewhere in the country. Buyers will benefit from having transparency and knowledge relating to the compensation buyers fund. Brokers will benefit from having a clearly defined written relationship with a buyer and the industry benefits by improving consumer protections instead of facing preventable litigation and investigation seen elsewhere in the country.

The bill does NOT eliminate the dual agent duty of loyalty as described in some of the information sent to WR members. However, consumers will be notified of the possibility of dual agency, be given an opportunity to consent or decline, and the limitations inherent in dual agency will be disclosed.

WR leadership is proud of the thorough PAG process and appreciates the input from many members, firms, and attorneys over the past few months. WR members should be proud of developing legislation that improves consumer protections, protects the industry, and puts Washington State at the forefront of real estate industry practices on a national level.

Cheri Daniels

2022 Washington REALTORS® President

Alisha Harrison

2023 Washington REALTORS® President

Enclosures (2):

Article – Industry Evolution

Agency Law Legislation

