

Minimum Service Listings

In today's competitive environment, being able to offer a minimum service listing option to your clients can be the difference in success and failure. However, there are some important elements to consider with this sort of offering. Specifically, if you are not going to provide your normal and customary level of service, then you **MUST** spell out the waiving of those duties in the special stipulations section of the listing agreement. The information below is taken directly from state code (state law) and **MUST** be incorporated into your agreement to avoid legal issues later. Pay special attention to the highlighted portions if you intend to offer a Minimum Service Listing. Cover your bases and do it the right way!

Title 62 Professions, Businesses and Trades
Chapter 13 Tennessee Real Estate Broker License Act of 1973
Part 4 Representation by Real Estate Agents

Tenn. Code Ann. § 62-13-404 (2011)

62-13-404. Duty owed to licensee's client.

Any licensee who acts as an agent in a transaction regulated by this chapter owes to the licensee's client in that transaction the following duties, to:

- (1)** Obey all lawful instructions of the client when the instructions are within the scope of the agency agreement between licensee and licensee's client;
- (2)** Be loyal to the interests of the client. A licensee must place the interests of the client before all others in negotiation of a transaction and in other activities, except where the loyalty duty would violate licensee's duties to a customer under § 62-13-402 or a licensee's duties to another client in a dual agency; and
- (3) (A)** Unless the following duties are specifically and individually waived, in writing by a client, a licensee shall assist the client by:
 - (i)** Scheduling all property showings on behalf of the client;
 - (ii)** Receiving all offers and counter offers and forwarding them promptly to the client;
 - (iii)** Answering any questions that the client may have in negotiation of a successful purchase agreement within the scope of the licensee's expertise; and
 - (iv)** Advising the client as to whatever forms, procedures and steps are needed after execution of the purchase agreement for a successful closing of the transaction.
- (B)** Upon waiver of any of the duties in subdivision (3)(A), a consumer shall be advised in writing by the consumer's agent that the consumer may not expect or seek assistance from any other licensees in the transaction for the performance of the duties in subdivision (3)(A).

HISTORY: Acts 1995, ch. 246, § 6; 1996, ch. 772, § 7; 2006, ch. 738, § 2.