Unit 4 Summary
Understanding BRRETA

Georgia Real Estate Law

BRRETA—The Brokerage Relationships in Real Estate Transactions Act—is a Georgia law that governs the agency relationships of brokers with sellers, buyers, landlords and tenants.

The intent of BRRETA is not to interfere with the contractual relationships that the involved parties have agreed upon, but only to fill the “gaps” that specific written agreements between the parties may not address. In other words, BRRETA was created to prevent detrimental misunderstandings and misinterpretations of such relationships by both consumers and real estate brokers, and, through this, to promote and provide stability in the real estate market.

Under BRRETA, a Georgia broker who performs brokerage services for a client or customer owes the client or customer only the duties and obligations set forth in this chapter of the law, unless the parties expressly agree otherwise in writing, and this agreement is signed by the parties.

BRRETA has a diverse array of provisions as they circumscribe a licensee's relationship with various other roles, specifically addressing duties, disclosures, liability, and performing ministerial acts. The main roles we will discuss are those between a licensee and a seller, a landlord, and buyers and tenants.

According to BRRETA, a broker engaged by a SELLER has the following duties. He must:

- Perform the terms of the brokerage engagement made with the seller, promoting seller’s interests.
- Seek a sale at the price and terms stated in the brokerage engagement or at a price and terms acceptable to the seller.
- Present all offers to and from the seller in a timely manner.
- Disclose all materials facts of which the broker has actual knowledge to the seller.
- Advise the seller to obtain expert advice as to material matters that are beyond their expertise.
- Account for all money and property received in a timely manner.

BRRETA also requires the broker to disclose all material facts pertaining to existing adverse physical conditions in the immediate neighborhood within one mile of the property (examples include land use maps and plans, zoning ordinances, tax maps, recorded plats and surveys, and other sources of information).

A broker must never knowingly give prospective buyers false information. However, a broker is not liable to a buyer for providing false information if the broker did not have actual knowledge that the information was false and if he discloses to the buyer the source of the information.

Under BRRETA, a broker engaged by a seller in a real estate transaction may provide assistance to the buyer by performing ministerial acts. The broker may:

- Identify property for sale, lease or exchange.
- Provide real estate statistics and information on property.
- Provide pre-printed real estate form contracts, leases, and related exhibits and addenda.
- Act as a scribe in the preparation of real estate form contracts, leases, and related exhibits and addenda.
- Locate architects, engineers, surveyors, inspectors, lenders, insurance agents, and other professionals.
- Identify schools and other similar facilities on behalf of any of the parties in a transaction.
Many of the duties, disclosures, liability, and ministerial acts brokers owe to sellers and landlords/buyers and tenants are the same.

In addition, a buyer's broker must disclose to the prospective seller in a timely manner all material facts that are known by the broker regarding the buyer's financial ability to perform the terms of the sale, AND, if the property is residential, the buyer's intent to occupy the property as his principal residence.

Brokerage engagement means an express written contract wherein the client promises to pay the real estate broker a valuable consideration in response to the broker's producing a seller, buyer, tenant or landlord ready, able and willing to sell, buy or rent the property.

A brokerage engagement is the agency relationship between the broker and the client, and MUST be created by a written contract, fully set forth their terms, and have a definite expiration date.

All brokerage engagements must advise the prospective clients of:
- The types of agency relationships available through the broker.
- Any brokerage relationships held by the broker with other parties, which would conflict with any interests of the prospective client that are known to the broker.
- The broker's compensation, including whether the broker will share such compensation with other brokers who may represent other parties to the transaction in an agency capacity.
- The broker's obligations to keep information confidential.

Dual agency is created when a broker has a client relationship with BOTH parties to a transaction. A broker may act as a dual agent only with the written consent of all clients, containing these details:
- A description of the transactions or types of transactions in which the broker will serve as a dual agent.
- A statement that the broker represents two clients whose interests are/could be different or even adverse.
- A statement that a dual agent will disclose to all parties in the transaction all adverse material facts relevant to the transaction that the dual agent knows.
- A statement that the broker (or the broker's affiliated licensees) will disclose, in a timely manner to each client, the nature of any material relationship the broker and the broker's affiliated licensees have with the other clients in the transaction.
- A statement that the client is not required to consent to the dual agency.
- A statement that the consent of the client has been given voluntarily and that the engagement has been read and understood.

Actual knowledge refers to what an agent knows to be true - express information or facts - about a property or a client's circumstances.

Imputed knowledge refers to what an agent "should have known" about a property or circumstance, simply because the client, broker, or another licensee knows to be true and they are connected by an agency relationship.
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In Georgia, each client and broker, along with the respective licensees, are considered to have only "actual" knowledge and information. In other words, Georgia law does not acknowledge any "imputed" knowledge or information among or between the clients, brokers, or their affiliated licensees.

In a designated agency, a broker may appoint or designate one licensee in the firm to represent one client (either the buyer or seller) in a transaction to the exclusion of all other agents in the brokerage. The broker can then appoint a different licensee to represent the other party in the same transaction.

A transaction broker is defined under Georgia law as "a broker who has not entered into a client relationship with any of the parties to a particular real estate transaction and who performs only ministerial acts on behalf of one or more of the parties, but who is paid valuable consideration by one or more parties to the transaction pursuant to a verbal or written agreement for performing brokerage services."

A transaction broker is permitted to assist buyers, sellers, tenants and landlords by performing ministerial acts.

A common source information company is any person, firm or corporation that is a source, compiler or supplier of information regarding real estate for sale or lease. This includes, but is not limited to, multiple listing services.

As we mentioned earlier, an agency relationship begins at the time the client engages a broker through a written agreement. This relationship continues until one of the following happens.

- Completion of performance of the task for which the broker was originally engaged.
- The time limit agreed to in the brokerage agreement or amendments to the agreement has expired.
- All involved parties have mutually agreed to end the relationship.
- When there is no expiration date noted in the agreement and the relationship has not been terminated otherwise, then it will be terminated one year after the initial engagement.

The following are the ONLY duties owed after the termination, withdrawal, expiration or completion of performance of the engagement.

- An accounting of all monies and property relating to the engagement.
- Continued confidentiality of all information received during the course of the engagement, which was made confidential by request or instructions from the client.