

SENATE, No. 627

By Mr. O'Leary, a petition (accompanied by bill, Senate, No. 627) of [Robert A. O'Leary](#), [Richard T. Moore](#) and [Dianne Wilkerson](#) for legislation relative to dual agency. [Financial Services](#)

The Commonwealth of Massachusetts



In the Year Two Thousand and Five.

AN ACT RELATIVE TO DUAL AGENCY

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Chapter 112 of the General Laws is amended by inserting in section 87AAA1/2 after subsection (f) the following new subsection:-

(g) Nothing in this law shall be construed to dilute the standards of consumer rights and protections under the General Laws and common law, including the requirement for full informed consent to designation of dual agency by both buyers and sellers.

And also by inserting in subsection (d) the following new language indicated in bold:

d) There shall be a conclusive presumption that a purchaser or seller has consented to a designated agency relationship, if he has signed a disclosure form that substantially contains the descriptions in this section and any other provisions required by law no later than **before a seller or buyer reveals confidential needs or negotiating strategies or by** the date that the buyer makes or submits an offer to purchase the property or that a purchase and sale agreement is executed, whichever **event [is] may be** first, **and provided said form contains the following certification by the dual agent or the designated agent, as the case may be:**

By signing this form, I, _____ (the Licensee), certify under pains and penalties of perjury based upon clear and convincing evidence that to the best of my knowledge and belief _____ (the Consumer) actually understands the conflicts of interest inherent in this dual agency (or this designated agency under the control of a dual agency) relationship, but nonetheless has given informed consent to becoming a party to it. The Licensee acknowledges that the Consumer's signing of any form does not constitute consent to any actual breach of the Licensee's fiduciary duties to the Consumer.