

REMOVAL OF OFFERS OF COMPENSATION FROM THE MLS

COMPENSATION FIELDS UPDATE & IMPLEMENTATION DATE

- **CBUS**
  - The compensation fields for all new listings in the CBUS MLS will be removed at 8:30 a.m. on Friday, August 16.
  - At that time, the process of removing compensation fields from all active listings within the MLS will begin.
  - This process will take multiple hours, meaning you may still see some listings with compensation listed while others may have that field removed through the morning.
  - It is anticipated that by the afternoon of Friday, August 16, all compensation will be removed from active and new listings within the Columbus & Central Ohio Regional MLS, thus making us compliant for the August 17 deadline.
- **Firelands**
  - All commission/compensation fields have been removed from Firelands MLS and no commission or compensation may be communicated in any field in the MLS.
  - This includes all fields, attached documents, the Newsfeed in the MLS and ShowingTime, as well as including any links in remarks to websites that display commission.
- **MLS Now**
  - All commission/compensation fields will be removed from MLS Now on August 12 and no commission or compensation may be communicated in any field in the MLS.

FINES FOR COMPENSATION DISCLOSURE VIOLATIONS

- **CBUS MLS - Grace period $0 fines until January 1, 2025**
  - 1st offense is $1000
  - 2nd offense is $2500
  - 3rd offense is $5000
  - 4th offense removed as a member from mls
- **Firelands MLS**
  - 1st offense is $2500.00
  - 2nd offense is $5000.00
  - Any further violations will result in review by the FAOR Board of Directors to impose additional fines and may result in suspension of MLS services.
- **MLS Now**
  - Currently the Board has not set any current fines for this. There is a 90 day grace period where the MLS will remove the language and notify the brokerage of the fact. After the 90 days the brokerage will be notified and they will need to remove it. There will be classes for agents that violate the input policy. The board will review after the 90 day grace period and come up with a policy.

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BUYER AGREEMENTS REQUIRED FOR ALL BUYERS

NEW NAR POLICY STATEMENT 8.13

- **Written Buyer Agreements Required -** Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home.
- **Key Components of the Written Agreement**
  - The NAR specifies the written agreement must include:
    i. A specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
    ii. The amount of compensation in a manner that is objectively ascertainable and not open-ended.
    iii. A term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
    iv. A conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.
  - Additionally, Ohio House Bill 466 also specifies the agreement must include:
    i. An expiration date.
    ii. A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sec, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.
    iii. A statement defining the practice known as "blockbusting" and stating that it is illegal.
    iv. A copy of the United States department of housing and urban development equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30 as amended.
    v. A statement that the licensee is appointed as an agent of the client, and an indication of whether the agency relationship is exclusive or nonexclusive.
    vi. In addition to iv above, that fees and commissions may be paid by the seller, the buyer, the landlord, the tenant, or a third party, or by sharing or splitting the fees and commissions between brokers.
- **Consumer Information about Written Agreements**
  - As always, the consumer chooses whether to use a real estate professional. It does, however, benefit you to choose a REALTOR® to represent you. Working as a fiduciary, your agent will advocate in your best interest as a partner on your side every step of the way throughout the transaction.
  - Sale prices are determined by the buyers and sellers of properties and influenced by supply and demand. The terms of the settlement and agent commissions do not determine home prices.
  - Offers of compensation between a seller agent and buyer agent will continue to be an option consumers can pursue through negotiation and consultation with real estate professionals, as long as the offers take place outside of the MLS.
  - The types of compensation available for REALTORS® would continue to take multiple forms, including but not limited to:

        - Fixed-fee or percentage commission paid directly by consumers
        - Concession from the seller
        - Portion of the listing broker's compensation
    - All compensation will continue to be negotiable and should always be negotiated between agents and the clients they represent.

ACTION ITEMS FOR AGENTS

- **Reviewing and Using Buyer Agreements**
    - Begin using the selected buyer agreement.
    - We recommend that you use an Exclusive Right to Represent Buyer agreement, however other agreements are also permitted as long as they comply with the rules and we will provide additional options.
    - Please note the Ohio form "Buyer Broker Showing Compensation Agreement" is NOT one of the options that complies with the rules as stated above.
    - **Record Keeping and Compliance**
    - Keep records of all signed documents. Each MLS does random audits and will verify the Buyer Representation Agreement is signed and meets all requirements.

UNDERSTANDING THE SETTLEMENT

- **SETTLEMENT OVERVIEW**
    - The recent industry changes are designed to enhance transparency and clarity around how and why REALTORS® get paid. As your dedicated fiduciary bound by a Code of Ethics, our commitment to finding your perfect home, negotiating on your behalf, and guiding you through the entire process remains the same. Our clients are our top priority, and ensuring you are protected, well-informed, and treated ethically though this most important transaction will remain at the core of what we do. The settlement is pending approval, and a decision is anticipated on Tuesday, Nov. 26th, 2024.
- **HOW WILL THE SETTLEMENT AFFECT AGREEMENTS BETWEEN REALTORS® AND CONSUMERS?**
    - This settlement will preserve the choices consumers have always had regarding real estate services and compensation. After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers cannot be communicated via the MLS. REALTORS® using the MLS on behalf of buyers are required to enter into written agreements with their buyers before touring a home. These agreements will help consumers understand exactly what services and value will be provided, and for how much.
- **WHAT EXACTLY IS CHANGING BECAUSE OF THE SETTLEMENT?**
    - When you're a buyer working with an agent using the MLS, you must sign a written agreement with your agent before touring a home, ensuring you know the exact services to be provided and their cost. This requirement applies to both in-person and virtual tours. However, no written agreement is needed for casual conversations at an open house or inquiries about services. Remember, agent compensation is fully negotiable, so don't hesitate to ask questions when selecting an agent to work with.

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COMPENSATION AND COMMISSION DETAILS

- **Determining Agent Compensation**
  - Brokers/Brokerages determine the services that they will provide and identify a schedule of fees for the services provided. That could be a percentage, flat fee, fee per service, hourly rate, or any other structure that the Brokerage determines. These fees are then discussed and are negotiated between the Client and the Broker. The fees may be paid by each party to their own Broker, by one party to both Brokers, by one party to their Broker with the direction to provide cooperative compensation to another Broker, or by any combination of these or other compensation models that the Client agrees upon with their Broker. IT'S ALL NEGOTIABLE.
  - **IS THERE A STANDARD COMMISSION FOR REAL ESTATE BROKERS?**
    - No. The amount of commission you agree to pay your broker is negotiable. There are no rules or regulations that set the amount brokers charge.
    - There are many different compensation models brokers may use, including commission, flat fee, hourly fee, and fees for specific tasks. The term commission is used here for simplicity.
    - Consumers can shop for various compensation models and services when choosing their broker.
  - **WHAT CONTROLS THE AMOUNT OF COMMISSION BROKERS CHARGE FOR THEIR SERVICES?**
    - Each brokerage independently determines the services it will provide and the commission it will charge for those services based on their own business decisions and market forces such as supply and demand.
    - Commission amounts have fluctuated over the years due to changes in market conditions.
- **Cooperative Compensation Explained**
  - When a home seller hires a listing broker, the listing broker will typically include the property on a multiple listing service (MLS). An MLS is a database of homes for sale in an area.
  - Brokers that represent buyers can search the MLS for homes that meet the buyers' criteria.
  - This cooperation between the listing broker and buyer's brokers helps to market the seller's property to as wide an audience as possible.
  - The listing broker has the option to share a portion of the listing broker's commission with the buyer's broker in exchange for bringing a buyer who ultimately buys the home.
- **Consumer Choice and Negotiability**
  - **IS COOPERATIVE COMPENSATION REQUIRED?**
    - No, Listing brokers are not required to share their commission with the buyer's broker.
    - The seller and listing broker work together to decide if cooperative compensation will be offered and how much that compensation will be.
  - **WHY WOULD THE LISTING BROKER CONSIDER PAYING THE BUYER'S BROKER?**
    - The cooperative compensation arrangement has proven to be an efficient method for brokers to be paid in a way that benefits both buyers and sellers.
    - Most mortgage lenders don't allow commissions to be added to home loans, and many buyers do not have the financial ability to pay real estate compensation out-of-pocket on top of the down payment and other closing costs.
    - When the listing broker pays the buyer's broker, more homebuyers can afford a home.
    - Sellers benefit because their property will be more attractive to a wider pool of potential buyers, often resulting in the seller's home being sold for a higher price.
  - **COMPENSATION REMAINS FULLY NEGOTIABLE**
    - Offers of compensation are prohibited on-MLS but are preserved as an option off-MLS based on negotiation between consumers and real estate professionals.

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        - Written buyer agreements will clearly outline the services buyers will receive, and how much they will cost.
        - The settlement empowers buyers and brokers to negotiate and agree to services and compensation that work for them.
        - Real estate professionals should work with consumers to make sure they fully understand their options, while continuing to seek fair compensation for their services.
- **Myth vs Fact**
    - **Myth**: Listing Brokers are no longer able to pay Buyer Broker Commission.
    - **Fact**: Offers of compensation can still be made, but the compensation being offered cannot be communicated in the MLS. Policy does not dictate whether an offer of compensation is made. The amount—and existence—of any offer of compensation is an option solely determined by the real estate professional and the consumer. In cases where a seller believes it is in their best interest and makes the informed decision to instruct their listing broker to offer compensation to buyer brokers, the listing broker may communicate the offer of compensation off-MLS. For example, the offer of compensation for the broker's listing could be communicated through common marketing methods such as:
        - On the broker's own website, Signs, Sign riders, Flyers, Social media posts, or by communicating directly with the buyer broker
    - **Myth**: I need a new listing agreement for active listings signed before August 17th.
    - **Fact**: You do not need a new listing agreement signed. Active agreements can either be amended or a separate disclosure can be provided to disclose that compensation is not set by law and is fully negotiable, and compensation will not be and cannot be communicated in the MLS.

IMPACT ON HOMEOWNERSHIP ACCESS

- **Ensuring Homeownership Remains Accessible**
    - A key priority of the settlement is to ensure that offers of compensation remain an option off-MLS. They are a critical tool to ensure the American Dream of homeownership remains accessible to all, including first-time, low-income, and veteran homebuyers.
    - Buyers can choose to compensate the buyer broker directly or seek compensation from the listing broker or seller.
    - As before the settlement, it is the seller's decision whether to authorize offers of compensation to buyer brokers, but it is illegal to refuse to authorize compensation, or to offer different compensation, because of the buyer, or the buyer's agent's national origin, gender, race, or other protected characteristic.
- **Support from Fannie Mae, Freddie Mac, and VA Policies**
    - Fannie Mae and Freddie Mac have both confirmed that buyers whose agents are compensated by the seller will continue to have access to financing through the agencies.
    - The Department of Veterans Affairs recently announced that it has temporarily lifted its ban on buyers paying for real estate agent representation. Veteran buyers now have more options, ensuring they can have professional access to representation in their home buying process. The VA's policy takes effect on August 10.

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CONSUMER EDUCATION

- **What Buyers Need to Know**
  - Explain that they will sign a written agreement with their agent before touring a home, whether virtually or in-person. If a buyer's agent is using an MLS, the buyer will need to sign a written agreement with the agent before touring a home so they understand exactly what services will be provided, and for how much.
  - Explain that they do not need a written agreement if they are just speaking to an agent at an open house or asking them about their services.
  - Underscore that before signing an agreement, they should ensure it reflects the terms they negotiated with their agent and that they understand exactly what services and value will be provided, and for how much.
  - Underscore that agent compensation for home buyers continues to be fully negotiable and is not set by law.
  - Detail the requirements of written buyer agreements and answer their questions.
  - Note that the home seller may agree to offer compensation to their agent, but the offer cannot be shared on an MLS.
  - Ensure they know these practice changes go into effect August 17.
  - As always, emphasize that buyers have a right to expect that housing will be available without discrimination or other limitations based on race, color, religion, sex, disability, familial status, or national origin.
    - Note: MLS Participants and buyers are not required to enter into any particular relationship and will still be able to enter into any type of professional relationship permitted by state law. Ohio law requires an agency agreement, either exclusive or non-exclusive.
- **What Sellers Need to Know**
  - Explain to sellers that they still have the choice of offering compensation to buyer brokers and that it may be in the sellers' best interest to pay for buyers' commissions. Doing so attracts more buyers to their property, just like setting an accurate list price.
  - Underscore that agents must conspicuously disclose to sellers and obtain their approval for any payment or offer of payment that a listing broker will make to another broker acting for buyers.
  - Note that this disclosure must be made in writing in advance of any payment or agreement to pay another broker acting for buyers and must specify the amount or rate of such payment.
  - Explain that if they choose to approve an offer of compensation, it cannot be included on an MLS.
  - Describe to sellers how agents can advertise listings off of MLS platforms such as social media, flyers, and websites.
  - Inform them they can still offer buyer concessions on an MLS (for example, concessions for buyer closing costs).
  - Ensure they know these settlement practice changes go into effect August 17.
  - As always, note that home sellers are required by law to do business with prospective buyers without regard to their race, color, religion, sex, disability, familial status, or national origin.

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CONSISTENCY AND ETHICAL STANDARDS

- **What Isn't Changing:**
  - Agents who are REALTORS® are always here to help them navigate the real estate transaction process and are ethically obligated to work in their best interest.
  - Compensation for agents remains fully negotiable, and if an agent is a REALTOR®, the agent must abide by the REALTOR® Code of Ethics and have clear and transparent discussions with consumers about compensation.
  - When finding an agent to work with you should ask questions about compensation and understand what services you are receiving.
  - You have choices and are encouraged to work with your agent to understand the full range of these choices and what works best for you.
- **REALTOR® Code of Ethics**
  - Buying a home is oftentimes the biggest and most complex purchase someone will make in their lifetime. That's why you don't want to go through it alone. An Ohio REALTOR serves as your trusted advisor, helping you through every step of the way. Here's a glimpse into some of the ways working with a REALTOR can help with your home-buying journey:
    - **Personalized Home Search:** While online home searches can provide a good idea of what's available, REALTORS® take the time to understand your unique wants, needs, and budget to find a list of properties that match your criteria and that may not be publicly available.
    - **Skilled Negotiation:** REALTORS® are skilled negotiators that work tirelessly on your behalf to secure the best possible deal. A REALTOR® counsels the buyer, presents counter offers, and provides crucial information and advice during the negotiation process.
    - **Industry and Local Market Knowledge:** Your REALTOR® is your go-to person for all things real estate. Agents know the current trends of the market as well as what's happening in individual communities and neighborhoods, property values, zoning, and more.
    - **Guidance Through the Process:** Buying a home can be complex, but you don't have to navigate it on your own. REALTORS® act as your trusted advisors, helping clients understand exactly what is needed to ensure the deal closes.
    - **Access to Resources:** From reputable lenders, to insurance companies, to trusted home inspectors, our extensive network of contacts can introduce you to local professionals that will help you throughout the home-buying journey.
    - **Protection and Peace of Mind:** Your satisfaction and protection are our top priorities. REALTORS® ensure that all necessary legalities are met, contracts are thoroughly reviewed, and your interests are protected throughout the transaction.
    - **Continued Support:** Our commitment to you goes beyond closing day. Even after you've found your dream home, we remain available to address any concerns, provide recommendations. and assist with future real estate endeavors.

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