

FACTS ABOUT THE NATIONAL ASSOCIATION OF REALTORS' SETTLEMENT

Advocating for you and your compensation

IN March of 2024, the National Association of REALTORS® (NAR) announced an agreement that would end litigation of claims brought on behalf of home sellers related to broker commissions.

Under the terms of the agreement, starting on Saturday, August 17, Multiple Listing Services (MLSs) will no longer be permitted to include broker compensation information.

To take the place of commission offers on the MLS, both buyer's and seller's agents must have conversations about compensation with their clients and capture the result of these discussions in legally-binding documents.

REALTORS® can still be paid through fixed-fee commission, directly from consumers, concessions from the seller or a portion of the listing broker's compensation.

REALTORS® are obligated to agree on compensation with their clients. Having a conversation to negotiate your compensation structure and amount is crucial to success. Remember these important facts and tips when working with your clients.



Facts for seller's agents:

- Having a conversation about your compensation with sellers during the listing process is vital. ***Remember, there is not and has never been a standard commission. Commission is and always has been negotiable.***
- The Exclusive Right to Sell agreement should include agreed upon compensation for the seller's agent and the maximum offered compensation for the buyer's agent, if offered by the seller. ***Examples of these documents can be found on the Kentucky REALTORS® settlement toolkit.***
- ***You can no longer include offers of compensation for the buyer's agent on the MLS listing.*** Buyer's agents must inquire with you (or your brokerage) about the compensation offer from the seller, if applicable.
- Sellers are not required to offer compensation to the buyer's agent.
- You should always remember the REALTORS® Code of Ethics and any brokerage policies when having these conversations and filling out legal documents.
- A Cooperation and Compensation agreement should be filled out and signed by the selling and buying agents' brokerages, documenting agreed upon compensation for both parties during the offer negotiation process.

For more information, visit facts.realtor



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Facts for buyer's agents:

- Communicate with the prospective buyer about your work and their goals. During this conversation, come to an agreement about how many homes you agree to show and the compensation the client is willing to offer should they purchase a home.
- It is in the REALTOR'S® best interest to remind their clients of the services that will be provided and expertise that will be shared during the process to demonstrate your value. However, a REALTOR® must never put broker compensation before their client's interests.
- REALTORS® must capture agreed upon compensation and showing information in the Buyers Representation Agreement. *Visit the [Kentucky REALTORS® settlement toolkit for more information about Buyers Representation Agreements and where to find examples](#).*
- Offers of compensation are not going to be available on the MLS. Contact the seller's agent for compensation information.
- If your client agrees to the amount and method of compensation, and they purchase a home covered under your Buyer Representation Agreement, they are responsible for ensuring your compensation.
- If the seller is offering buyer's agents less than the compensation agreed upon by buyer's agent and the buyer in the Buyer Representation Agreement, the buyer is responsible for paying the difference. If a listing offers more compensation than agreed upon between buyer and buyer's agent in the Buyer Representation Agreement, the buyer's agent nor the seller's agent are entitled to the difference in compensation and those funds should be retained by the seller.
- Always remember, steering buyers based on the amount of broker compensation is prohibited under the Code of Ethics.
- A Cooperation and Compensation agreement should be filled out and signed by the selling and buying agents' brokerages, documenting agreed upon compensation for both parties during the offer negotiation process.

In Kentucky, real estate commission has always been negotiable and will continue to be negotiated between REALTORS® and the consumers they represent.

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