

May 2024 - Office Meeting

Office Event schedule and links at www.executiveagent.net

Shred Events – 9-12, please share on Social.

May 18 – Severna Park, shareable Facebook event link: <https://fb.me/e/75wdn0xbU>

Blue Angels Boat Day with In House Title Partners

- Next Tuesday and Wednesday 12-4
- Boat docked at Ego Alley this year so come and go anytime.
- Please rsvp to Stella@IHTitle.com

Open House Momentum Class, May 29th 10-12, Severna Park & Zoom

- Best practices for Open Houses, Promotion, Setup
- Identifying lookers, potential buyers, potential sellers. Convert into conversations.

Industry Changes Workgroups

- Buyers as Buyer Clients – May 29th 1PM, Severna Park Office
- Sellers/Listing, Other Agents, Unrep. Buyers, meetings TBD

Mastermind Workshops, Now Thursdays

- 9:30-11:00 in both the Millersville and Kent Island Office
- Topics sent by the group, Mastermind on Lead Generation, Conversion, Tech.

2nd Quarter Birthday Lunch – Thursday June 6th, 12-2, Save the Date!

June Office Meetings

- Severna Park Office, Wednesday June 12th 11AM
- Zoom only all welcome, Thursday June 13th 1PM

Longest Day Fundraising, Real Estate Rumble June 5th

- 10 of our agents are competing against teams from 9 other local brokerages.
- Teams will raise money and compete in a day of games on June 5th.
- Each team can have 10 guests as a cheer squad. Speak with Jennie Leigh.
- [Click here to visit our team page.](#) Please share via social and help support us and a great cause.

May Anniversaries: Jessica Clark 2 Years, Alicia Guinn 8 Years

May Birthdays: Crystal Smith 5/5, Gail Hardesty 5/16, Cindy Beres 5/24, Marcie Shea 5/29, Jennie Reed 5/30

Program

Settlement Recap and Q&A, New rules go into effect August 17th 2024

- **Please see updated Q&A, Financing Q&A in handout.**
- IPC (Interested Party Contributions)
- Both FHA, Fannie Mae & Freddie Mac have both issued statements clarifying that with the upcoming changes they will not consider a Seller paying a Buyer's Agent fee directly a IPC.
- No update on VA yet but with these two announcements I am hopeful they will make changes.

Off Market Listing Policy Review

- See Handout. Be sure to review and understand Off Market Policy.
- <https://www.brightmls.com/article/11125>
- Bright Off Market Waiver form is in Dotloop in Frequently Used Forms folder.

Things you should be doing in KV Core!!

- Sharing your listings from your website!!!
- Auto posting Open Houses and New Listings to Social.
- A campaign for everyone.
- Property Evaluations for SOI and Seller prospects.
- Checking your Dashboard to see who is looking at listings on the regular.

RE/MAX University Agent Roundtables

- Held Monthly, great topics and content. Register via RU on Max/Center.

Post Settlement Occupancy, you must use the correct form.

- Post Settlement Occupancy Agreement in MAR folder. All fields should be completed.
- Pay attention to the final inspection date, if it is changed it must be done in writing.
- The buyer has 5 days to report damage and make a claim against the security deposit. Claim must be itemized with line-by-line breakdown of cost per repair and delivered to Seller and Escrow Agent.

Executive Referrals

- executivereferralsmd.com
- It's time to start building a referral team. If you would like custom marketing material contact Amy at marketing@executiveagent.net
- If you have a producing agent whose business, you wish to acquire speak to Nathan and I will help you develop a plan and an offer for the agent. Transition plans can range from 1-5 years and when done well both parties win.

Market Update

Seller Instruction Not to Allow Others to Learn About the Property Through Bright MLS

Property Address:
 Listing Agreement Beginning Date:
 Listing Expiration Date:

This form must be signed at the same time as the listing agreement so your broker can report to Bright MLS within two calendar days how the property will be marketed to brokers and the public. Nearly every home in the area is in Bright’s database, and most websites and apps get their information from Bright. This form instructs your broker, however, not to have your property information shared with others through Bright’s system.

By signing this form, Seller/Landlord represents:

- I understand that, if I choose not to promote my home through Bright’s multiple listing service (MLS) on an impartial basis to the area’s brokers and homebuyers, that I am potentially leaving tens of thousands of dollars on the table. A 2023 study showed that homes promoted through Bright sold faster and for \$53,890 more, on average, than similar homes not promoted through Bright.
- I understand that most properties in the area are marketed through Bright’s service, which enables homeowners, buyers, and renters an equal opportunity to access up-to-date information about properties for sale and rent.
- I understand that Bright’s system enables the information to be available on thousands of websites, providing all prospective buyers with an equal opportunity to learn about the property. A seller/landlord may, however, instruct their broker to select in Bright’s system not to publish the information to the internet and public websites.
- I understand that not allowing Bright to distribute my property’s information to other brokers and the public will substantially reduce the number of potential buyers/renters and real estate agents who can learn about the property.
- I understand that entering my property’s information into Bright’s system does not cost me anything.

Owner/Seller instructs Broker (initial only one):

- Do not market the property until Bright MLS begins sharing the information with others on _____(date).
- Permit Bright MLS to disseminate the property’s information within its system to other real estate professionals but not on the internet (i.e., public websites and apps).
- Do not permit Bright MLS to disseminate the property’s information to others (until _____(date)).

By signing below, Seller/Landlord certifies they have read and understand the information in this form.

Seller/Landlord:	Date:
Seller/Landlord:	Date:
Listing Agent (Print Name):	Agent Bright MLS ID:
Brokerage Firm (Print Name):	
Broker/Office Manager Signature:	Date:

POST-SETTLEMENT OCCUPANCY AGREEMENT

AGREEMENT dated _____ between
 Buyer _____
 and Seller _____
 for Property known as _____

1. TERM OF OCCUPANCY AND CONSIDERATION. Buyer hereby permits Seller to remain in possession of the Property from the Settlement Date of _____ through _____ at _____ a.m./p.m. ("Term of Occupancy"), with the Term of Occupancy **not to exceed sixty (60) days**, upon payment of consideration at Settlement as follows:

- | | Buyer's Initials | | Seller's Initials | |
|-----|------------------|--|-------------------|--|
| (a) | | | | Nominal Consideration; or |
| (b) | | | | Carrying Costs of Buyer. Carrying Costs of Buyer are defined as: Mortgage Principal and Interest, Property Taxes, Mortgage Insurance, Flood and/or Other Hazard Insurance, any HOA or Condominium fees, and/or landscaping fees, as applicable and all pro-rated accordingly, as calculated by Escrow Agent identified in the Security Deposit paragraph below; <u>or</u> |
| (c) | | | | Flat Daily Rate of \$ _____ per day, for a total of \$ _____. |

The consideration paid is non-refundable in the event Seller vacates the Property prior to the last day of the Term of Occupancy. In no event shall Seller remain in the Property after the end of the Term of Occupancy. If Seller fails to vacate the Property by the end of the Term of Occupancy, Buyer shall have any and all legal remedies available to them, and Seller hereby acknowledges and agrees to automatically forfeit their Security Deposit as provided in the Security Deposit paragraph as Additional Consideration to Buyer and authorizes Escrow Agent as identified in the Security Deposit paragraph to disburse the Security Deposit to Buyer.

2. SECURITY DEPOSIT. Seller shall deposit \$ _____ at Settlement with _____ ("Escrow Agent") as a Security Deposit. The Security Deposit will be applied to any unpaid amounts that may remain due to Buyer pursuant to this Agreement, any extension thereof or hold-over period, or applied to any damages to the Property caused by Seller and/or Seller's family members, guests, invitees, licensees, contractors, employees, and/or agents, in excess of ordinary wear and tear, or any other damages and expenses incurred by Buyer as a result of a breach of any term of this Agreement. Escrow Agent shall hold the Security Deposit in a non-interest-bearing account in an FDIC-insured financial institution.

3. PROPERTY CONDITION. Seller hereby agrees to deliver the Property to Buyer at the end of the Term of Occupancy in the condition as required under the terms of the parties' Contract of Sale dated _____.

4. UTILITIES. Seller shall continue to pay all utilities through the later of the last day of the Term of Occupancy or the date Seller vacates the Property.

5. FINAL INSPECTION AND DEFICIENCIES. Following the date Seller vacates the Property, Buyer and/or Buyer's designee shall inspect the Property to ensure that the condition of the Property is satisfactory in accordance with the terms of the Contract of Sale. Seller and/or Seller's designee shall have the right to be present at such inspection. The Final Inspection shall take place on _____ or any other date mutually agreed to by the parties in writing. In the event that Buyer determines that all terms of the Contract of Sale related to property condition have not been complied with, Buyer



shall deliver a written list of deficiencies, with each deficiency corresponding to a line-item charge against the Security Deposit, to Seller and to Escrow Agent within five (5) days of the date of the Final Inspection.

In the event a written list of deficiencies is delivered to Seller and Escrow Agent within the above-referenced timeframe, Escrow Agent shall continue to hold the Security Deposit pending delivery of either of the following:

- A. Notice from Buyer to Escrow Agent directing a release of all funds to Seller; or
- B. A written agreement between Buyer and Seller specifying any other disposition of such funds.

6. DISBURSEMENT OF SECURITY DEPOSIT. In the event Buyer fails to make a timely claim against the Security Deposit in connection with alleged deficiencies as stated in the Final Inspection and Deficiencies paragraph, Buyer is barred from making any claims under this Agreement against the Security Deposit. In such case, Escrow Agent shall release the Security Deposit to Seller without any further agreement, notice(s), or duties. Notwithstanding the release of the Security Deposit, the parties agree that the rights and obligations of the parties with respect to the condition of the Property as specified in this Agreement and the parties' Contract of Sale remain in full force and effect. In the event that any amounts due to Buyer under this Agreement are in excess of the Security Deposit, it is acknowledged and agreed that Seller shall immediately reimburse Buyer for all additional amounts due.

7. ESCROW AGENT. Buyer and Seller acknowledge and agree that Escrow Agent's responsibilities as referenced in this Agreement shall be 1) maintenance of the Security Deposit in a non-interest-bearing, FDIC-insured account as described in the Security Deposit paragraph; 2) the receipt of any written list of deficiencies identified by Buyer as described in the Final Inspection and Deficiencies paragraph, and; 3) the disbursement of the Security Deposit as described in the Disbursement of Security Deposit paragraph, as applicable. In no event shall Escrow Agent be liable for any decisions made by the parties pursuant to this Agreement or in the event the Security Deposit is insufficient to pay all Buyer's bona fide damages and expenses. In the event that Escrow Agent must participate in negotiations with or between the parties, or in any legal or equitable proceedings in any capacity, Buyer and Seller agree to be jointly and severally liable for Escrow Agent's time, as well as reasonable attorney's fees, expenses, and costs incurred by Escrow Agent. Escrow Agent shall give advance notice to Buyer and Seller prior to incurring any expenses or charges for which Buyer and/or Seller shall be responsible under this paragraph.

Escrow Agent hereby acknowledges and agrees to perform the duties and responsibilities as set forth herein:

Escrow Agent Signature	Agent/Company Name	Date

8. PROPERTY ACCESS BY BUYER. On the Settlement Date, Seller shall provide Buyer with a set of keys to the Property and any access codes necessary for electronic locks. It is further acknowledged and agreed that Buyer may enter the Property to examine, maintain, repair, or protect the Property from damage. Buyer may enter the Property at reasonable hours of the day and upon reasonable advance notice to Seller, except in an emergency, in which case no such advance notice shall be required.

9. LANDLORD-TENANT RELATIONSHIP NOT CREATED. This Agreement does not constitute or create a Landlord-Tenant relationship between Buyer and Seller. Seller hereby warrants and agrees that no such tenancy shall arise under this Agreement or under applicable state or local law. Seller shall have no rights afforded to tenants in the jurisdiction where the Property is sited by way of this Agreement.

10. INSURANCE. Buyer shall maintain fire and extended coverage insurance on the Property with an appropriate absentee owner's liability clause. In addition, Seller shall obtain and maintain throughout the Term of Occupancy an appropriate insurance policy or policies that insures Seller against loss or damage to Seller's personal property and insures both Buyer and Seller for vandalism, fire, and extended coverage for injuries sustained by Seller's guests or other third parties who may enter the Property during the Term of Occupancy. Buyer shall be named as a loss payee with the Seller on said policy or policies of insurance. Buyer and Seller shall confirm with their respective insurers that appropriate coverage can be and is obtained pursuant to the terms of this Agreement.



If there is duplicate coverage on the Property, Buyer's policies shall be primary and Seller's policies shall be secondary. Seller shall be responsible for the payment of any deductibles under any and all insurance policies in the event of a covered loss. Except for claims arising out of Buyer's negligence, it is acknowledged and agreed that Seller releases, indemnifies, and holds Buyer harmless against any and all claims that Seller and/or Seller's family members, guests, invitees, licensees, contractors, employees, and/or agents may have for personal injury and/or for loss or damage to personal property during the Term of Occupancy. Such release and indemnification shall include, but is not limited to, reasonable attorney fees.

All terms and conditions of the parties' Contract of Sale remain in full force and effect.

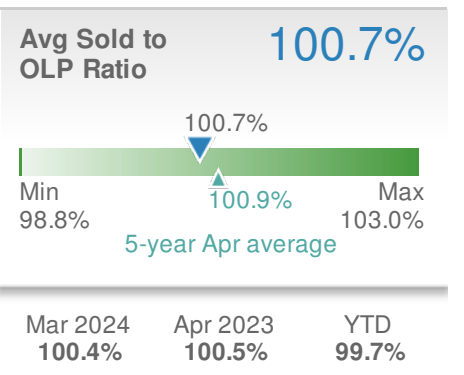
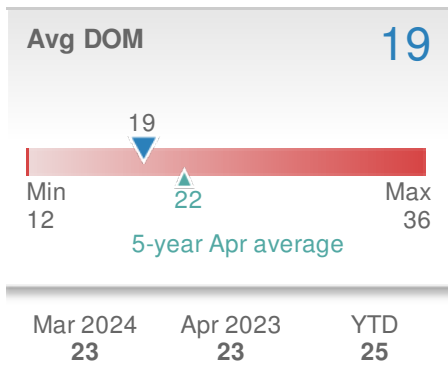
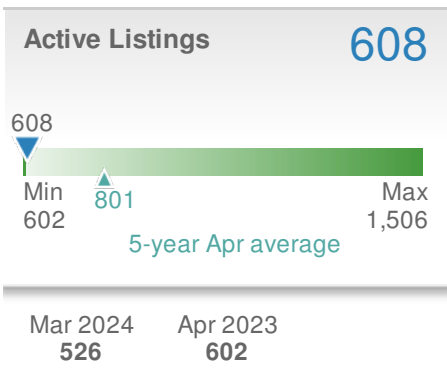
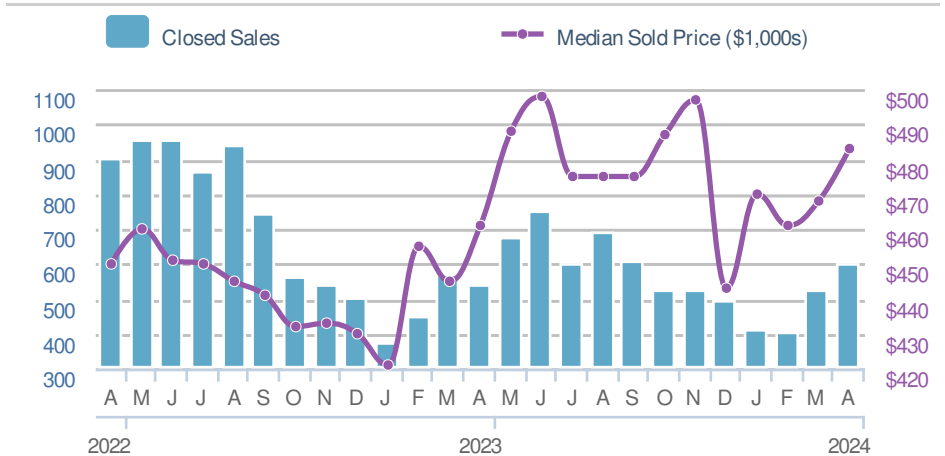
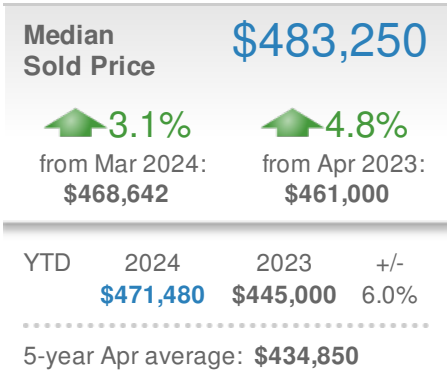
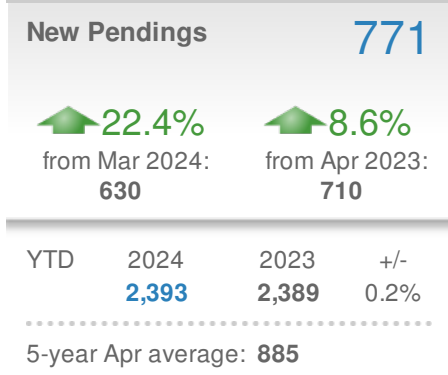
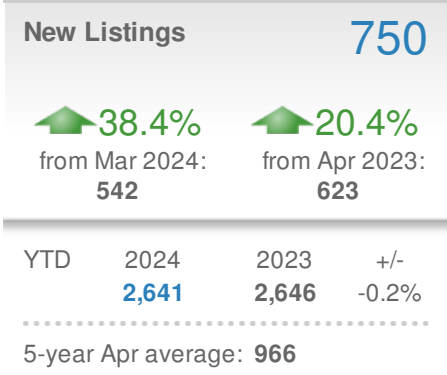
Buyer Signature	Date
Buyer Signature	Date

Seller Signature	Date
Seller Signature	Date



April 2024

Anne Arundel County, MD



April 2024

Anne Arundel County, MD

Sold Summary

	Apr 2024	Apr 2023	% Change
Sold Dollar Volume	\$356,429,587	\$287,202,893	24.10%
Avg Sold Price	\$607,955	\$541,416	12.29%
Median Sold Price	\$483,250	\$461,000	4.83%
Units Sold	595	536	11.01%
Avg Days on Market	19	23	-17.39%
Avg List Price for Solds	\$600,049	\$537,833	11.57%
Avg SP to OLP Ratio	100.7%	100.5%	0.17%
Ratio of Avg SP to Avg OLP	100.2%	99.8%	0.44%
Attached Avg Sold Price	\$447,186	\$415,385	7.66%
Detached Avg Sold Price	\$710,989	\$606,938	17.14%
Attached Units Sold	233	184	26.63%
Detached Units Sold	362	352	2.84%

Notes:

- SP = Sold Price
- OLP = Original List Price
- LP = List Price (at time of sale)
- Garage/Parking Spaces are not included in Detached/Attached section totals.

Inventory

	Apr 2024	Apr 2023	% Change
Active Listings	608	602	1.00%
New Listings	750	623	20.39%
New Under Contracts	0	0	0%
New Contingents	0	0	0%
New Pendings	771	710	8.59%
All Pendings	990	959	3.23%

Financing (Sold)

Assumption	1
Cash	110
Conventional	301
FHA	85
Other	6
Owner	0
VA	89

Days on Market (Sold)

0	15
1 to 10	370
11 to 20	64
21 to 30	26
31 to 60	39
61 to 90	22
91 to 120	18
121 to 180	12
181 to 360	13
361 to 720	6
721+	10

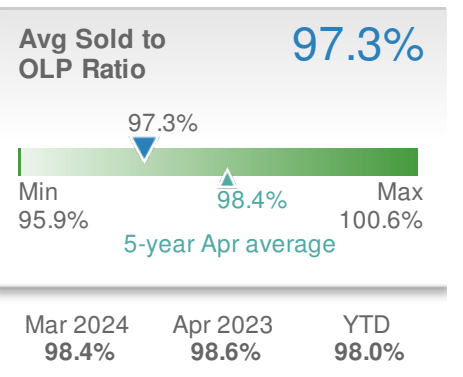
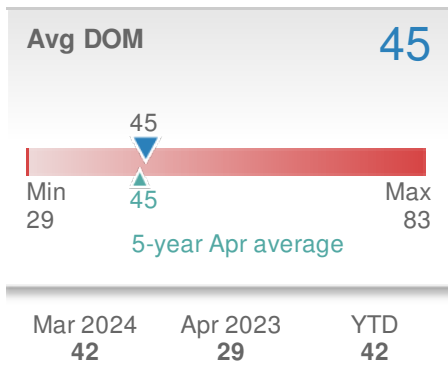
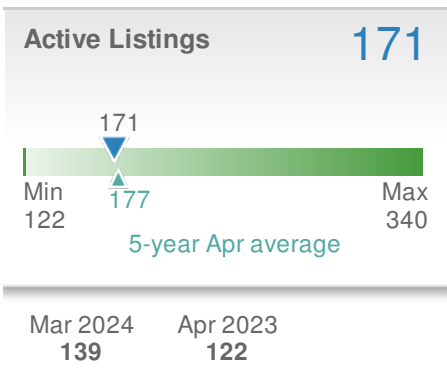
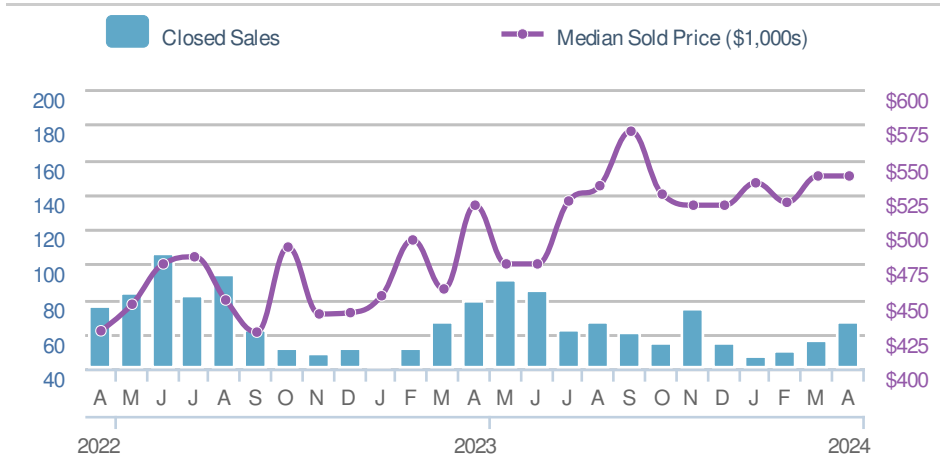
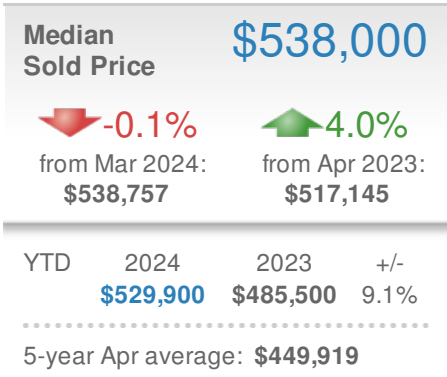
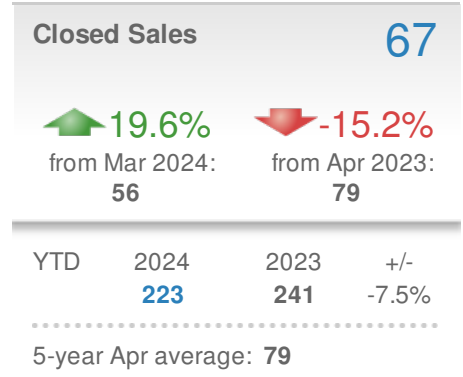
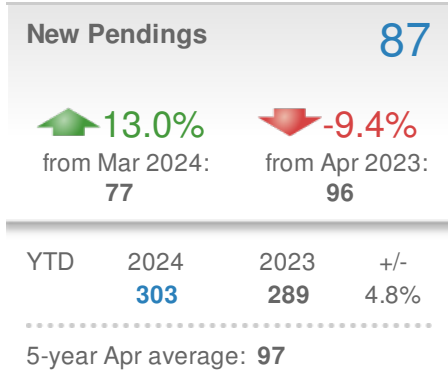
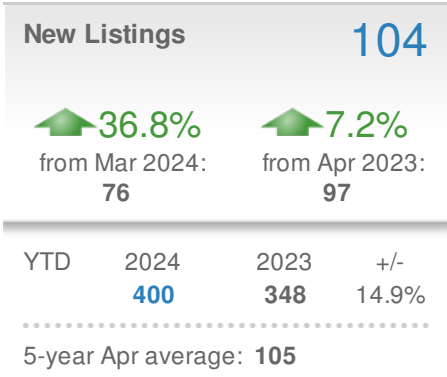
Sold Detail

Price Ranges	Residential						Condo/Coop	Active Listings		
	2 or Less BR		3 BR		4 or More BR		All	Residential		Condo/Coop
	Detached	Attached/TH	Detached	Attached/TH	Detached	Attached/TH	Attached	Detached	Attached/TH	Attached
< \$50,000	1	0	0	0	0	0	0	0	0	0
\$50K to \$99,999	2	1	1	0	0	0	0	3	1	2
\$100K to \$149,999	0	2	3	1	1	0	0	5	1	0
\$150K to \$199,999	0	0	1	0	0	0	2	4	0	0
\$200K to \$299,999	2	1	7	3	3	0	17	5	4	14
\$300K to \$399,999	11	5	26	26	22	2	41	34	17	15
\$400K to \$499,999	0	6	43	45	29	4	8	73	45	7
\$500K to \$599,999	1	2	11	32	25	8	2	58	35	4
\$600K to \$799,999	0	0	15	10	71	6	6	80	15	11
\$800K to \$999,999	0	1	6	0	32	0	0	53	4	3
\$1M to \$2,499,999	0	0	6	0	37	1	0	78	2	5
\$2.5M to \$4,999,999	0	0	1	0	3	0	1	24	1	1
\$5,000,000+	0	0	1	0	1	0	0	4	0	0
Total	17	18	121	117	224	21	77	421	125	62
Avg Sold Price	\$295,273	\$399,720	\$576,652	\$465,036	\$815,105	\$586,635	\$392,512			
Prev Year - Avg Sold Price	\$388,166	\$375,659	\$444,681	\$434,029	\$712,569	\$452,902	\$394,816			
Avg Sold % Change	-23.93%	6.41%	29.68%	7.14%	14.39%	29.53%	-0.58%			
Prev Year - # of Solds	18	22	117	86	217	14	62			

Active Detail

April 2024

Queen Annes County, MD



April 2024

Queen Annes County, MD

Sold Summary

	Apr 2024	Apr 2023	% Change
Sold Dollar Volume	\$38,830,105	\$49,062,630	-20.86%
Avg Sold Price	\$577,674	\$618,212	-6.56%
Median Sold Price	\$538,000	\$517,145	4.03%
Units Sold	67	79	-15.19%
Avg Days on Market	45	29	55.17%
Avg List Price for Solds	\$579,553	\$621,045	-6.68%
Avg SP to OLP Ratio	97.3%	98.6%	-1.30%
Ratio of Avg SP to Avg OLP	97.0%	98.0%	-1.03%
Attached Avg Sold Price	\$512,190	\$418,444	22.40%
Detached Avg Sold Price	\$594,971	\$643,897	-7.60%
Attached Units Sold	14	9	55.56%
Detached Units Sold	53	70	-24.29%

Notes:

- SP = Sold Price
- OLP = Original List Price
- LP = List Price (at time of sale)
- Garage/Parking Spaces are not included in Detached/Attached section totals.

Inventory

	Apr 2024	Apr 2023	% Change
Active Listings	171	122	40.16%
New Listings	104	97	7.22%
New Under Contracts	0	0	0%
New Contingents	0	0	0%
New Pendings	87	96	-9.38%
All Pendings	156	139	12.23%

Financing (Sold)

Assumption	0
Cash	15
Conventional	41
FHA	4
Other	0
Owner	0
VA	5

Days on Market (Sold)

0	2
1 to 10	23
11 to 20	6
21 to 30	6
31 to 60	6
61 to 90	4
91 to 120	2
121 to 180	6
181 to 360	6
361 to 720	5
721+	1

Sold Detail

Price Ranges	Residential						Condo/Coop	Active Listings		
	2 or Less BR		3 BR		4 or More BR		All	Residential		Condo/Coop
	Detached	Attached/TH	Detached	Attached/TH	Detached	Attached/TH	Attached	Detached	Attached/TH	Attached
< \$50,000	0	0	0	0	0	0	0	0	1	0
\$50K to \$99,999	0	0	0	0	0	0	0	0	0	1
\$100K to \$149,999	0	0	0	0	0	0	0	0	0	0
\$150K to \$199,999	1	0	2	0	0	0	0	3	0	0
\$200K to \$299,999	0	0	0	0	0	0	1	6	1	1
\$300K to \$399,999	1	0	4	1	3	0	0	6	3	4
\$400K to \$499,999	0	0	7	1	3	1	2	28	0	1
\$500K to \$599,999	0	0	2	0	10	1	4	23	3	5
\$600K to \$799,999	2	0	4	0	7	0	3	39	1	6
\$800K to \$999,999	0	0	2	0	2	0	0	12	0	2
\$1M to \$2,499,999	0	0	0	0	3	0	0	16	0	3
\$2.5M to \$4,999,999	0	0	0	0	0	0	0	5	0	0
\$5,000,000+	0	0	0	0	0	0	0	1	0	0
Total	4	0	21	2	28	2	10	139	9	23
Avg Sold Price	\$454,950	\$0	\$485,515	\$420,000	\$697,067	\$501,197	\$532,827			
Prev Year - Avg Sold Price	\$235,000	\$342,500	\$561,893	\$525,000	\$734,705	\$0	\$426,000			
Avg Sold % Change	93.60%	0.00%	-13.59%	-20.00%	-5.12%	0.00%	25.08%			
Prev Year - # of Solds	2	2	31	1	37	0	6			

Active Detail

Customer Support Center to Close Early May 15

On Wednesday, May 15, Bright's Customer Support Center will close at noon and the Accuracy and Policy Department will be closed all day for staff development. We will be open and available to serve you again on Thursday, May 16. Thank you for your understanding!

[LOG IN](#)

NEWS

May 1: Update to Office Exclusive Entry

Office Exclusive listings can no longer be submitted through Account & Settings. Here's what you need to know.

May 01, 2024

Bright MLS

In January of this year, we introduced the ability to enter and manage Office Exclusives through Bright Listing Management. **Effective May 1, 2024, this will be the only way to enter and submit your Office Exclusives. The new process replaces the old method of submitting an Office Exclusive Certification form to the Accuracy & Policy Team through Account & Settings.**

Brokerages should continue to keep Office Exclusive forms or similar addendums signed by sellers/landlords for their own records.

Tips for Managing your Office Exclusive L...



Why the Change?

This update reduces the burden on agents to submit the information to Bright, improves data management, and allows the shift to a standard listing more quickly.

Access to Office Exclusives

Effective May 1, you are no longer able to submit new Office Exclusive forms through Account & Settings. While historical reporting from Account & Settings will be available for a time, all Office Exclusives entered in Bright must be tracked and managed through Listing Management.

Office Exclusives entered via the new process will continue to only be available to the listing broker/agent through Bright Listing Management. At this time, these listings are not available in Bright Search for the listing agent.

Brokers, Authorized Signers, and Office Managers will also continue to receive a daily email report notifying you of any new Office Exclusives entered by agents in your brokerage. This email has been expanded to include all on-market Office Exclusive listings for your office.

Questions? Attend Our Training

Get more information about entering Office Exclusives in Bright Listing Management at one of our upcoming webinars.

[REGISTER NOW](#)

Recent articles

ALL
UPDATES

Now Available: New Status Options for Office Exclusive...

Explore the updated list of available status options for entering Office Exclusives in Bright Listing Management.

February 22, 2024

Now Available: Enter Office Exclusives in Bright Listing...

This update reduces the burden on agents to submit the information to Bright, improves data management, and allows the shift to an Active listing more quickly.

January 10, 2024

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NAR SETTLEMENT FAQs

Last Updated: May 9, 2024; 10:00PM ET

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SETTLEMENT OVERVIEW AND KEY TERMS

1. Why did NAR enter into this settlement?

- Since the litigation began, we have worked consistently to reach a resolution with the plaintiffs.
- We have always wanted to reduce the significant strain on our members and provide a path forward for the industry.
- From the beginning of this litigation, we had two goals:
 - Secure a release of liability for as many of our members, associations, and MLSs as we could; and
 - Preserve the choices consumers have regarding real estate services and compensation.
- This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.

2. What are the key terms of the agreement?

- **Release of liability:** The agreement would release NAR, over one million NAR members, all state/territorial and local REALTOR® associations, all REALTOR® MLSs, and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2 billion or below from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.
 - NAR fought to include all members in the release and was able to ensure more than one million members are included.
 - Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the Sitzer-Burnett case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement.
 - The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion, and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it. Individual members and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2 billion or below are released by the agreement and not required to opt in.
- **Compensation offers moved off the MLS:** NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals.

And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs). This change will go into effect August 17, 2024.

- Written agreements for MLS Participants acting for buyers: While NAR has been advocating for the use of written agreements for years, in this settlement we have agreed to require MLS Participants working with buyers to enter into written agreements with their buyers before touring a home. This change will go into effect August 17, 2024.
- **Settlement payment:** NAR would pay \$418 million over approximately four years. This is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission. NAR will not change membership dues for 2024 or 2025 because of this payment.
- **NAR continues to deny any wrongdoing:** NAR has long maintained—and we continue to believe—that cooperative compensation and NAR’s current policies are good things that benefit buyers and sellers. They promote access to property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment. With this settlement, NAR is confident it and its members can still achieve all those goals.

3. Does this settlement mean that NAR is admitting that plaintiffs’ allegations are true?

- No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the MLS cooperative compensation model rule (MLS Model Rule).
- It has always been NAR’s goal to resolve this litigation in a way that preserves consumer choice and protects our members to the greatest extent possible. This settlement achieves both of those goals.
- This agreement significantly reduces liability nationwide for over one million NAR members, all state/territorial and local REALTOR® associations, REALTOR® MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below. Ultimately, continuing to litigate would have hurt members and their small businesses.
- The agreement provides a path forward for our industry and NAR.

4. By changing the cooperative compensation policy, aren’t you admitting that it was problematic?

- No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the MLS cooperative compensation model rule (MLS Model Rule).
- NAR has long maintained—and we continue to believe—that cooperative compensation and NAR’s current policies are good things that benefit buyers and sellers. They promote access to real property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment. Real estate laws in many states authorize offers of compensation.
- With this settlement, NAR is confident it and its members can still achieve all those goals.

5. What were the key factors that influenced NAR’s decision to choose the legal path it did for the settlement?

- NAR explored settling throughout the litigation and carefully considered the other legal options available to us. These included:
 - **Appealing:** A win on appeal would only have addressed the verdict in the Sitzer-Burnett case (not any of the copycat cases) and may only have resulted in a new jury trial, leaving members and consumers with continued uncertainty.
 - **Chapter 11 reorganization:** In theory, Chapter 11 would have enabled NAR to eliminate its own liabilities while pursuing an appeal of the Sitzer-Burnett verdict. But we believe that would have left members with continued uncertainty and potential liability risk. Chapter 11 would also have paused the litigation against NAR but not the other defendants in the cooperative compensation cases.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the Sitzer-Burnett verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.

6. How quickly do you expect the settlement to be reviewed and/or approved by the court?

- The court granted preliminary approval on April 24, 2024.
- The practice changes set forth in the settlement agreement will take effect August 17, 2024, and class notice will take place no earlier than that date.
- The settlement is subject to final court approval. The final approval hearing is scheduled to take place on November 26, 2024.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

WHO IS COVERED

7. How do I know if I'm covered by the settlement?

- If you are an NAR member as of the date of the class notice, you are covered by the settlement unless:
 - You are an employee of: eXp Realty, LLC; eXp World Holdings, Inc.; Hanna Holdings, Inc.; HomeSmart International, LLC; Howard Hanna Real Estate Services; Redfin Corporation; United Real Estate; or Weichert, Realtors® OR
 - You are associated with HomeServices of America or one of its affiliates. HomeServices of America announced its own settlement on April 26, 2024.
- Class notice will be sent out no earlier than August 17, 2024.

8. Will I be covered by the settlement if I only became a member shortly before the date of class notice? Or, alternatively, dropped my membership shortly before the date of class notice?

- To be covered by the settlement, you must be an NAR member as of the date of class notice.
- You will not be covered by the settlement—regardless of prior membership length—if you resign your membership, if your membership is terminated, or if your membership becomes inactive prior to the date of class notice.
- Class notice will be sent out no earlier than August 17, 2024.

9. Brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2+ billion are not covered by the release. What about members affiliated with those brokerages?

- Except for members affiliated with HomeServices of America and employees of the remaining corporate defendants named in the cases covered by this settlement, members affiliated with brokerages with an NAR member as principal whose transaction volume in 2022 was \$2+ billion are covered by the release.
- Individual members and all brokerages with an NAR member as principal with a residential transaction volume in 2022 of \$2 billion or below are released from liability in the proposed settlement agreement. No further affirmative steps are required.

10. How does the settlement affect corporate brokerages and any brokerages that are carved out from the release?

- The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion, and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.
- While we would have preferred to protect all industry players, ultimately NAR could not persuade the plaintiffs to include the largest brokerages, particularly given the significant settlements that other corporate defendants have already reached.
- Individual members and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2 billion or below are released from liability in the proposed settlement agreement. No further affirmative steps are required.

11. Why does the release of liability carve out some co-defendants and some of their affiliated agents?

- NAR fought to include all members in the release and was able to ensure more than one million members were included.
- Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the Sitzer-Burnett case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement. HomeServices of America announced its own settlement on April 26, 2024.
- Plaintiffs would not agree to include these members and employees of the corporate defendants in the NAR's release.
- NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion, and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.

12. In what ways did NAR attempt to include all members in the settlement process, and what were the limitations?

- Throughout the settlement process, we engaged with a diverse range of stakeholders and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

13. How does the settlement affect state/territorial and local associations?

- The agreement would release all state/territorial and local REALTOR® associations from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions and would also require their compliance with the practice changes agreed to in the settlement.

14. Are institutes, societies, and councils affiliated with NAR included in the release in the settlement agreement?

- Yes.

15. Does the fact that the release does not cover everybody mean that NAR has left large corporate brokerages and affiliated agents to fend for themselves?

- Absolutely not. NAR fought to include as many people and companies in the release as possible and achieved a release for everyone it could. Over one million members are covered, as are tens of thousands of REALTOR® businesses.
- The scope of the release makes clear that NAR looked out for its members. Ultimately, NAR was able to ensure that agents, even those at brokerages that are not covered, are among the more than one million members released.
- Despite NAR's efforts, plaintiffs would not agree to include everybody.
- Those that are not released—the largest companies in our industry—are no worse off now than they were before the settlement.
- In fact, many are better off, as thousands of their independent contractor real estate agents are released by the settlement.
- However, they can choose whether to use the mechanism NAR negotiated.
- Our options included reaching a settlement or continuing to appeal the Sitzer-Burnett verdict and litigate the related cases. The latter could have led to our filing for Chapter 11 protection, leaving all members, associations, MLSs, and brokerages exposed.

16. What is required for brokerages with residential transaction volume in 2022 that exceeded \$2 billion to obtain releases?

- NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion to obtain releases efficiently if they choose to use it. However, the remaining defendants in the actions covered by the Agreement cannot use the opt-in mechanism.

- Broadly speaking, the opt-in provides two paths:
 - **Option 1:** A brokerage can elect to pay an amount based on a predetermined formula based on that brokerage’s residential transaction volume.
 - **Option 2:** A brokerage can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
 - Brokerages can also choose not to participate in this settlement.
- In order to be released under the settlement, eligible brokerages must agree to and execute Appendix C – Brokerage “Opt In” Agreement and return it—along with the required documentation and indication noted in paragraph 20 of Appendix C—to the email addresses realtorsoptin@jndla.com, realtorsoptin@cohenmilstein.com, and nargovernance@nar.realtor within 60 days of the filing of the motion for preliminary approval (by June 18, 2024).
- All agreements reached through this mechanism would be subject to court approval.

17. What is required for non-REALTOR® MLSs to obtain releases?

- For MLSs that are not wholly owned by a REALTOR® association, the agreement includes a mechanism to obtain a release efficiently if they so choose.
- The agreement provides two paths:
 - **Option 1:** The MLS can elect to pay an amount based on a pre-determined formula based on number of MLS subscribers.
 - **Option 2:** The MLS can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
 - **Non-REALTOR® MLSs** can also choose not to participate in this settlement.
- Under both options, participating non-REALTOR® MLSs would agree to be bound by the practice changes set forth in the settlement agreement, including and not limited to the adoption of a rule prohibiting offers of compensation on that MLS.
- Non-REALTOR® MLSs must:
 - Execute Appendix D—Non-REALTOR® MLS “Opt In” Agreement—by June 18, 2024, which is 60 days from the filing of the Motion for Preliminary Approval.
 - Return the executed Agreement—along with the required indication noted in paragraph 20 of Appendix D—to the email addresses realtorsoptin@jndla.com, realtorsoptin@cohenmilstein.com, and nargovernance@nar.realtor

- Choose between the options to either pay a per-subscriber fee to the Settlement Fund or pay an amount agreed to in a non-binding mediation.
- Implement practice changes as soon as practicable but not later than September 16, 2024, which is 150 days from the filing of the Motion for Preliminary Approval.
- NAR recommends all MLSs opting into the settlement implement the practice changes by August 17, 2024.

18. What is required for REALTOR® MLSs to obtain releases?

- REALTOR® MLSs must:
 - Execute Appendix B by June 18, 2024, which is 60 days from the filing of the motion for preliminary approval.
 - Return the executed REALTOR® MLS “Opt In” Agreement Appendix B to the email addresses realtorsoptin@jndla.com, realtorsoptin@cohenmilstein.com, and nargovernance@nar.realtor
 - Implement the practice changes by August 17, 2024, to be in compliance with mandatory NAR policy.

19. What happens if a non-REALTOR® MLS doesn’t opt-in to the proposed settlement agreement?

- The MLS would not be covered by the release of the proposed settlement agreement.

PRACTICE CHANGES & MLS INFORMATION

20. What MLS policies have changed?

- The policy changes, agreed to by NAR leadership, were reviewed and updated with the changes as outlined below:
 - Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
 - Retain, and define, “cooperation” for MLS Participation.
 - Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
 - Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
 - Require the MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet

aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.

- Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with the MLS terminating the Participant's access to any MLS data and data feeds.
- Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
- Require compensation disclosures to sellers, and prospective sellers and buyers.
- Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

21. What is the value of an MLS?

- MLSs have always provided significant value beyond communicating offers of compensation.
- MLSs:
 - Enable comprehensive marketplaces: Access to inventory and widespread advertising incentivizes local broker participation.
 - Ensure reliable data access: NAR guidelines for local MLS broker marketplaces enable hubs of trusted, verified information where all participants have equitable access.
 - Create connections: Local MLS broker marketplaces create the largest opportunity for connections between real estate agents with properties to sell and those with clients looking to buy.
 - Advance small business: Compiling housing information that is accessible to all businesses, in one place, allows smaller real estate brokerages to compete with larger ones.
 - Encourage entrepreneurship: Because of lower barriers to entry enabled by local MLS broker marketplaces, new market entrants can advance technology, consumer service and other innovations.

22. How has the definition of an MLS Participant been changed?

- The definition has been amended to remove any references to offers of compensation and to establish that a Participant has the duty to cooperate, which is to share information on listed property and to make property

available to other brokers for showing to prospective purchasers and tenants when it is in the best interest of their clients.

23. Are all other MLS policies that were not amended still in effect?

- Yes, all MLS policies will continue to be in effect and subject to enforcement by their local MLSs.

EFFECTIVE DATE CHANGE

24. When will the practice changes take effect?

- On August 17, NAR’s mandatory MLS policy changes, which implement the settlement’s required practice changes, will take effect.
- Our settlement requires NAR to implement the practice changes no later than the date of class notice. Through the preliminary settlement approval process, we now know the earliest date of class notice is August 17, 2024.
- Additionally, to comply with NAR’s mandatory national MLS policies, REALTOR® MLSs must implement the practice changes by August 17.
- NAR shared these practice changes in early May to provide a three-month window for NAR members and MLSs to prepare to implement these changes.

25. NAR originally planned for the practice changes to take effect in “late July.” Why the change?

- Our settlement requires NAR to implement the practice changes no later than the date of the class notice. Through the preliminary settlement approval process, we no longer have to estimate the date of the rule change, and now know the earliest date of the class notice is August 17, 2024.

26. The opt-in agreements in the appendices indicate that MLSs that opt in to the NAR settlement have until September 16, 2024, to implement changes. Should MLSs also implement the practice changes by August 17, 2024?

- MLSs that have opted into the settlement agreement have until September 16, 2024, to implement the necessary policy changes and to be considered Released Parties under the settlement, as provided in the relevant appendices they executed. However, in accordance with mandatory NAR policy, REALTOR® MLSs must implement the practice changes by August 17, 2024. If they do not, they will not be in compliance with NAR mandatory policy. NAR recommends all MLSs opting into the settlement implement the practice changes by August 17, 2024. NAR’s accelerated rule change process, during which it released the exact language of the practice changes in early

May, gives MLSs over three months to implement the changes by August 17, 2024.

27. Why is NAR putting the practice changes in place prior to receiving final approval?

- Our settlement requires NAR to implement the practice changes no later than the date of the class notice. Through the preliminary settlement approval process, we no longer have to estimate the date of the rule change, and now know the earliest date of the class notice is August 17, 2024.

OFFERS OF COMPENSATION

28. Why was prohibiting the publication of compensation offers in the MLS part of the settlement?

- While NAR has long maintained—and we continue to believe—that cooperative compensation and NAR’s current policies are good things that benefit buyers and sellers, we also acknowledge that continuing to litigate would have hurt members and their small businesses, so have agreed to put in place a new rule prohibiting offers of compensation on the MLS.
- This is consistent with NAR’s long-maintained position that prohibiting all offers of cooperative compensation entirely would harm consumers and be inconsistent with real estate laws in the many states that authorize them.
- We believe this agreement provides a path forward for our industry and NAR.

29. Does this mean buyers won’t have to use a buyer broker to purchase a property?

- As always, the consumer chooses whether to use a real estate professional. Research has confirmed that consumers find great value in the services provided by a buyer broker, and we continue to believe it is imperative for buyer brokers to clearly articulate what services and value they are providing to consumers.

30. Does this mean buyer brokers may have to work for free?

- No. We have long believed that it is in the interest of the sellers, buyers, and their brokers to make offers of compensation—but using the MLS to communicate offers of compensation will no longer be an option.
- The types of compensation available for buyer brokers would continue to take multiple forms, including but not limited to:
 - Fixed-fee commission paid directly by consumers
 - Concession from the seller

- Portion of the listing broker's compensation
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent

31. How will buyer brokers get paid now?

- Offers of compensation will continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals.
- The types of compensation available for buyer brokers would continue to take multiple forms, depending on broker-consumer negotiations, including but not limited to:
 - Fixed-fee commission paid directly by consumers
 - Concession from the seller
 - Portion of the listing broker's compensation
 - Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

32. Does this prohibition affect the compensation amount paid to the listing broker?

- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

33. What should listing brokers advise their clients about the prohibition of offers of compensation on an MLS?

- Listing brokers should inform their clients that offers of compensation will no longer be an option on an MLS.
- This change will not prevent offers of cooperative compensation off an MLS. And it will not prevent sellers from offering buyer concessions on an MLS (ex. concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

34. Does this prohibition affect the compensation amount paid to the listing broker?

- No. Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent, as NAR's policy has required for decades.

35. How will offers of compensation be communicated if brokers can't use MLSs? Doesn't this just make broker compensation less transparent?

- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate

professionals. And sellers can offer buyer concessions on an MLS (for example—concessions that can be used for buyer closing costs).

- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction, honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.
- NAR remains dedicated to promoting transparency in the marketplace and working to ensure that consumers have access to comprehensive, equitable, transparent, and reliable property information, as well as the ability to have affordable professional representation in their real estate transactions.

36. Won't prohibiting offers of compensation on the MLS raise fair housing issues?

- This settlement allows compensation to remain a choice for consumers when buying or selling a home.
- NAR continues to believe that offers of compensation help make professional representation more accessible, decrease costs for home buyers to secure these services, increase fair housing opportunities, and increase the potential buyer pool for sellers.
- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.

37. Should active listing or buyer agreements entered into before the MLS policy change be amended to include a conspicuous disclosure that compensation is not set by law and is fully negotiable?

- MLS Participants must make this disclosure, but active agreements do not need to be amended to accomplish this. MLS Participants can do a separate disclosure to satisfy the requirement.

38. Should active listing agreements entered into before the MLS policy change be amended to address the settlement agreement's prohibition on offers of compensation being communicated on the MLS?

- If the listing agreement instructs the listing broker to make an offer of compensation without reference to the MLS, no change to the listing

agreement is needed, as the listing broker can comply with that instruction without violating the MLS policy change.

- But if the listing agreement specifies that offers of compensation be made “on the MLS,” then the listing broker should work with the seller to amend the listing agreement before the MLS policy change is implemented, to make it clear the listing broker will not make an offer of compensation on the MLS and will not be violating the listing agreement by failing to make an offer of compensation on the MLS.

39. Can buyers and buyer brokers rely on an offer of compensation that was on the MLS prior to the effective date of the MLS policy changes?

- If the sales contract is executed before the MLS policy change, the buyer broker should be able to rely upon the offer of compensation even if closing occurs after the date of the policy change.
- But if a sales contract is not executed before the date the participant’s MLS implements the policy changes, the offer on the MLS will not be valid and buyers and buyer brokers may wish to protect themselves in writing with the listing broker or seller through a broker agreement or by including the offer of compensation in the sales contract.

40. How does this affect the existing listing agreements that require an offer of compensation to be made in the MLS?

- After the new rule goes into effect, listing agreements should be amended to reflect that offers of compensation cannot be communicated via the MLS.
- The settlement expressly provides that sellers may communicate seller concessions—such as buyer closing costs—via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

41. Are non-REALTOR® MLSs affected by the prohibition of publishing compensation offers on the MLS?

- Only if they choose to opt into the proposed settlement.

42. If the seller or the listing broker offers a bonus or financial incentive in addition to the offer of broker compensation, can the buyer broker accept the extra compensation?

- The buyer broker may not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer.

43. Does Standard of Practice 16-16 prohibit the negotiation of buyer broker compensation in a buyer's purchase offer?

- No. A buyer can always ask their buyer broker to make it a term of an offer to purchase that the seller pay certain compensation to the buyer broker.
- Standard of Practice 16-16 prohibits a REALTOR® from attempting to modify the terms of a listing agreement through the terms of an offer because the listing agreement is a contractual matter between the seller and the listing broker. However, the seller and the listing broker may independently choose to amend the listing agreement or take any other action they deem appropriate based on the seller's negotiations with the buyer. Standard of Practice 16-16 also prohibits a REALTOR® from delaying or withholding delivery of a buyer's offer while attempting to negotiate a buyer broker compensation.

44. Can a buyer request the listing broker to pay compensation to the buyer broker?

- Yes.

45. Can an MLS have a Yes/No Compensation Field?

- No. The new MLS policies prohibits any information about compensation in the MLS.

46. Can a listing broker communicate offers of compensation on a broker website which has an IDX or VOW feed?

- Yes, MLS Participants may augment MLS data or data feeds with offers of compensation to buyer brokers or other buyer representatives for only listings of their own brokerage.

47. Can an MLS Participant use or share their MLS data or data feeds to establish or maintain a platform for offers of compensation from multiple brokers and buyer brokers or other buyer representatives?

- No, use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited.

48. Can an MLS allow MLS listings to link to a listing broker's contact information (e.g., telephone number, broker's preferred communication method)?

- Yes.

49. Can disputes about an offer of compensation still be arbitrated or mediated?

- Yes, REALTORS® are bound to arbitrate or mediate pursuant to Article 17 of the Code of Ethics, and for MLS Participants who are non-REALTORS® they are bound to arbitrate or mediate pursuant to their MLS's local rules.

WRITTEN AGREEMENTS

50. What provisions must be included in written buyer agreements?

- The written agreement must include:
 1. 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.
 2. The amount of compensation in a manner that is objectively ascertainable and not open-ended.
 3. 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
 4. A conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.

51. Who will be responsible for enforcing the written agreements and ensuring all parties follow this new practice change?

- The MLS will be responsible for enforcing the rule regarding written agreements, like the MLS enforces other existing rules.

52. The practice change requiring written agreements with buyers is triggered by two conditions: it only applies to MLS Participants “working with” buyers and is triggered by “touring a home.” What does it mean to be “working with” a buyer?

- The “working with” language is intended to distinguish MLS Participants who provide brokerage services to a buyer—such as identifying potential properties, arranging for the buyer to tour a property, performing or facilitating negotiations on behalf of the buyer, presenting offers by the buyer, or other services for the buyer—from MLS Participants who simply market their services or just talk to a buyer—like at an open house or by providing an unrepresented buyer access to a house they have listed.
- If the MLS Participant is working only as an agent or subagent of the seller, then the participant is not “working with the buyer.” In that scenario, an agreement is not required because the participant is performing work for the seller and not the buyer.

- Authorized dual agents, on the other hand, work with the buyer (and the seller).

53. What does it mean to tour a home?

- Written buyer agreements are required before a buyer tours a home for sale listed on the MLS.
- Touring a home means when the buyer and/or the MLS Participant, or other agent, at the direction of the MLS Participant working with the buyer, enter the house. This includes when the MLS Participant or other agent, at the direction of the MLS Participant, working with the buyer enters the home to provide a live, virtual tour to a buyer not physically present.
- A “home” means a residential property consisting of not less than one nor more than four residential dwelling units.

54. Does the requirement for a written agreement with buyers mean that MLS Participants and buyers must enter into a written agency agreement?

- No. MLS Participants and buyers will still be able to enter into any type of professional relationship permitted by state law.
- NAR policy does not dictate:
 - What type of relationship the professional has with the potential buyer (e.g., agency, non-agency, subagency, transactional, customer).
 - The term of the agreement (e.g., one day, one month, one house, one zip code).
 - The services to be provided (e.g., ministerial acts, a certain number of showings, negotiations, presenting offers).
 - The compensation charged (e.g., \$0, X flat fee, X percent, X hourly rate).

55. What does it mean to be “inconsistent with state or federal law or regulation”?

- All MLS Participants working with a buyer must have a buyer written agreement prior to touring, unless state law requires an agreement earlier in time.

56. If an MLS Participant hosts an open house or provides access to a property, on behalf of the seller only, to an unrepresented buyer, will they be required to enter into a written agreement with those buyers touring the home?

- No. The new rule will cover every type of relationship where an MLS Participant is working with a buyer.

57. Are written buyer agreements required when listing agents talk with a buyer on behalf of a seller only or as subagents of the seller?

- No. If the MLS Participant is working only as an agent or subagent of the seller, then the participant is not working for the buyer. In that scenario, an agreement is not required because the participant is performing work for the seller and not the buyer.

58. Are written buyer agreements required when MLS Participants perform ministerial acts?

- Yes. The obligation is triggered once the MLS Participant is working with that buyer and has taken them to tour a home, regardless of what other acts the MLS Participant performs.
- But an MLS Participant performing only ministerial acts—without the expectation of being paid for those acts and who has not taken the buyer to tour a home—is not working for the buyer.

59. If an MLS Participant enters into a non-agency relationship with a buyer, is a buyer written agreement still necessary?

- Yes, regardless of whether it is an agency or non-agency relationship, the obligation is triggered once the MLS Participant works with that buyer and has taken her to tour a home.

60. Are written buyer agreements required in a dual agency scenario when a single agent works both for the seller and for the buyer?

- Yes. If an MLS Participant is working as an agent for a buyer, a written agreement is required.

61. Are written buyer agreements required in a designated agency scenario, when a single broker works both for the seller and for the buyer, and designates an agent to represent the buyer?

- Yes. If an MLS Participant is working as an agent for a buyer, a written agreement is required.

62. Do the written buyer agreement requirements change my state's disclosure requirements to an unrepresented buyer?

- No, you must still comply with all your state and local legal requirements. MLS policies and rules are subject to state and local laws and regulations.

63. How will state laws affect the implementation of the practice change requiring written agreements with buyers?

- Written buyer agreements will be required of all MLS Participants working with buyers prior to touring a home, unless state law requires a written buyer agreement earlier in time.

64. Will MLSs be required to get a copy of buyer written agreements?

- No, the MLS is not required to receive a copy but can request it as a matter of their local enforcement.

65. MLS Participants may not receive compensation for services from any source that exceeds the amount or rate agreed to in the buyer agreement. Does this mean that brokerages can only have one agreement with the buyer?

- No. NAR policy does not dictate:
 - What type of relationship the professional has with the potential buyer (e.g., agency, non-agency, subagency, transactional, customer).
 - The term of the agreement (e.g., one day, one month, one house, one zip code).
 - The services to be provided (e.g., ministerial acts, a certain number of showings, negotiations, presenting offers).
 - The compensation charged (e.g., \$0, X flat fee, X percent, X hourly rate).
- Compensation continues to be negotiable and should always be negotiated between MLS Participants and the buyers with whom they work.

66. In the buyer agreement, can buyers and buyer brokers agree to a range of compensation?

- NAR policy will not dictate the compensation agreed between buyers and buyer brokers (e.g., \$0, X flat fee, X percent, X hourly rate).
- Under the settlement, any compensation agreed to must be objectively ascertainable and not open-ended.
- For example, the range cannot be “buyer broker compensation shall be whatever amount the seller is offering to the buyer.”

67. Should active buyer agreements entered into before the MLS policy change be amended to make sure any compensation is not open-ended and is objectively ascertainable?

- Yes. MLS Participants working with a buyer after the effective date of the policy should take steps to ensure that the buyer has agreed to the necessary terms required by the settlement agreement.

68. Should active buyer agreements entered into before the MLS policy change be amended to remove any provision that authorizes the buyer broker to keep any offers of compensation exceeding the amount of compensation agreed with the buyer?

- Yes. MLS Participants working with a buyer after the effective date of the policy should take steps to ensure that the buyer has agreed to the necessary terms required by the settlement agreement.

69. Does the settlement agreement's requirement of "objectively ascertainable" and "not open-ended" apply to listing agreements or the compensation sellers pay listing brokers?

- No. Unlike the settlement agreement's requirements that compensation in buyer agreements be objectively ascertainable and not open-ended, listing agreements can be structured however the seller and listing broker agree, so long as the listing agreement complies with the law, pre-existing MLS policy, and "specifies the amount or rate of any payment" from the seller to the listing broker.

CONCESSIONS

70. Is there an NAR MLS policy about seller concessions?

- No, MLSs will continue to have local discretion on seller concessions. This includes determining what local rules to have about seller concessions, except under the settlement the MLS must ensure that the seller concessions are not limited to or conditioned upon the retention of or payment to a cooperating broker, buyer broker, or other buyer representative.

71. Can an MLS have a Yes/No seller concession field that indicates whether a seller is offering any concession?

- Yes, it is a matter of local discretion which may depend on the MLS's technological capabilities and what the MLS deems to be in the interests of its market.

72. Is an MLS required to have a seller concession field?

- No, it is a matter of local discretion for each MLS.

73. If my MLS removes the compensation field, can I choose to publish my cooperative commission offer in the agent remarks?

- No. The new rule would prohibit offers of compensation on the MLS.

74. Can MLSs allow decimal points to be used for seller concessions?

- Yes, it is a matter of local discretion which may depend on the MLS's technological capabilities and what the MLS deems to be in the interests of its market.

75. Will seller concessions communicated in the MLS be binding on the seller?

- As a general matter, seller concessions usually aren't binding until they are established in an executed contract such as a listing agreement or a purchase contract.

76. Can the seller concession be a total sum or the percentage of the purchase price?

- This is a matter of local discretion. But the MLS must ensure that the seller concessions are not limited to or conditioned upon the retention of or payment to a cooperating broker, buyer broker, or other buyer representative.

NON-FILTERING OF LISTINGS

77. Didn't the NAR MLS policies already include a policy about the non-filtering of MLS listings based on compensation?

- Yes, Policy Statement 8.5 was enacted in 2021. It has only been amended for clarification purposes and to ensure consistency with the proposed settlement agreement.

78. What does it mean to "filter-out" a listing?

- Filtering out listings means to remove listings or block MLS listings from being communicated to customers or clients based on the amount of compensation offered, the existence of an offer of compensation, or based on the listing firm or listing agent.
- Participants have the duty to cooperate which is to share information on listed property and to make property available to other brokers for showing

to prospective purchasers and tenants when it is in the best interest of their clients.

79. Is “ranking” or “sorting” different from “filtering out” listings?

- Yes, “ranking” or “sorting” listings is the ability to organize a list of MLS listings in a particular order. Examples of criteria that may be used to rank or sort may be the property sales price, the number of bathrooms or bedrooms, the property location, etc. Ranking or sorting must not involve the removal or the blocking of MLS listings which prevent the communication of those listings to a client or customer.

80. Can the MLS have a function within its system that automatically pushes out emails to clients about available properties hitting the market and allows Participants or Subscribers to filter out listings based on the offer of compensation, listing firm or the listing agent?

- Since offers of compensation may no longer be communicated on the MLS, it should not have any functionality related to broker compensation.
- As for filtering based on listing firm or listing agent, just like the inability of Participants or Subscribers to withhold listings based on those criteria in IDX and VOW displays, MLSs cannot enable that same ability within other MLS functions that provide listing data to consumers.
- An MLS must take appropriate action if it becomes aware that a Participant or Subscriber acts inconsistently with this MLS policy.

COMMERCIAL NON-RESIDENTIAL LISTINGS

81. What do these practice changes mean for commercial practitioners?

- The proposed settlement agreement—like the Sitzler-Burnett lawsuit and the copycat lawsuits—is focused on residential real estate transactions. That means most commercial transactions will not be affected.
- In many markets, commercial listings appear in commercial information exchanges (CIEs) and not multiple listing services (MLSs), and do not include an offer of compensation.

The settlement prohibits offers of compensation on an MLS and requires MLS Participants working with buyers to enter into written agreements with their buyers. These practice changes will go into effect August 17, 2024.

82. Are commercial listing services that don’t pull from the MLS subject to the practice change prohibiting offers of compensation on the MLS?

- No. That practice change prohibits offers of compensation on the MLS and it prohibits MLSs from allowing third parties to use MLS data to facilitate a platform for multiple brokerages to make offers of compensation.

83. Does the requirement to use a written agreement before showings apply to commercial transactions?

- No. The settlement and the practice changes it requires are focused on residential transactions, not commercial transactions, or leases.

84. If a commercial broker who is a REALTOR® has access to an MLS, but is showing a property on CIE or another platform that is not associated with an MLS, does the requirement to use a written agreement apply for that property?

- No. The settlement and the practice changes it requires are focused on residential transactions, not commercial transactions, or leases.

IMPACT

85. How does the settlement affect home sellers and home buyers?

- This settlement would preserve the choices consumers have 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 could not be communicated via the MLS.
- MLS Participants acting for buyers would be required to enter into written agreements with their buyers before touring a home. These agreements can help consumers understand exactly what services and value will be provided, and for how much.

86. Will this prohibition save money for sellers or buyers?

- As NAR has maintained throughout the litigation, nothing in NAR's current policies (including the MLS Model Rule) has increased costs for buyers or sellers.
- This settlement would preserve the choices consumers have 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 could not be communicated via the MLS.

- The settlement expressly provides that sellers may communicate seller concessions—such as buyer closing costs—via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

NAR OPERATIONS

87. How will NAR fund the settlement?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

88. How does this settlement change NAR's value proposition? Why should real estate professionals continue to be NAR members after this news?

- We are confident that this agreement provides a path for NAR to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- NAR fought to include all members in the release and was able to ensure more than one million members were included.
- We will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

89. Who at NAR signed off on the settlement and was the decision to settle subject to proper NAR governance procedures?

- The settlement was signed off by NAR's Leadership Team, in consultation with outside legal and financial experts, and in accordance with NAR's governance procedures.
- Throughout the settlement process, we engaged with a diverse range of members and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

90. What was NAR's overarching strategy with the settlement and why did NAR choose to not more actively advocate for its position in the public domain during the legal negotiations?

- Since the litigation began, we have consistently worked to reach a resolution with the plaintiffs.
- In the months since the Sitzer-Burnett verdict, we redoubled those efforts.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.
- We have always wanted to reduce the significant strain on our members and provide a path forward for the industry and, from the beginning of this litigation, we had two goals:
 - Secure a release of liability for as many of our members, associations, and MLSs as we could; and
 - Preserve the choices consumers have regarding real estate services and compensation.
- This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the Sitzer-Burnett verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.
- NAR has been proactive in publicly advocating our position throughout the litigation. We have published multiple op-eds and provided our perspective to various news outlets reporting on NAR and the challenges our industry faces.
- We have also consistently updated Competition.Realtor—our online hub of information about how REALTORS® and local MLS broker marketplaces create competitive, efficient, pro-consumer markets—with new information, materials, and FAQs pertinent to the litigation.

91. Why is NAR paying so much more to settle than the corporate *defendants* did?

- This settlement was heavily negotiated and is based on NAR’s ability to pay.
- NAR has secured a release of liability for over one million NAR members, all state/territorial and local REALTOR® associations, all REALTOR® MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

92. Does the settlement affect NAR’s ability to continue operating?

- We are confident that this agreement provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- The settlement amount is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR’s operating budget to help ensure we will continue to deliver unparalleled value to and advocacy on behalf of REALTORS®, including through our learning opportunities and resources, research, and member tools.

93. Can NAR use reserves to pay for the settlement? If so, how much?

- This settlement was heavily negotiated, and the amount is based on NAR’s ability to pay.
- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

94. What does this settlement mean for NAR advocacy efforts? Is there still funding available for those efforts?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- The settlement amount is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR’s operating budget to help ensure we will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

95. Will NAR raise dues or levy an assessment on members to fund the settlement?

- NAR will not change membership dues for 2024 or 2025 because of this payment.

Executive Summary

Pursuant to the requirements of the proposed Settlement Agreement, the MLS policies and model MLS governing documents were reviewed and updated with the key changes below.

1. Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
2. Retain, and define, "cooperation" for MLS Participation.
3. Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
4. Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
5. Require the MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.
6. Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with the MLS terminating the Participant's access to any MLS data and data feeds.
7. Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
8. Require compensation disclosures to sellers, and prospective sellers and buyers.
9. Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

These policy changes were approved by the NAR Leadership Team and will be effective on August 17.

For additional information go to: <https://www.nar.realtor/the-facts>.

Section #	Policy Language
<p>Section 1 Multiple Listing Service (MLS) Defined</p>	<p>A multiple listing service is:</p> <ul style="list-style-type: none"> • a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and customers and the public • a means of enhancing cooperation among Participants • a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers • a means by which Participants engaging in real estate appraisal contribute to common databases (<i>Revised</i>) M
<p>Section 2 Definition of MLS Participant (Policy Statement 7.9)</p>	<p>Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word Participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and cooperate, or</p>

SUMMARY OF MLS POLICY CHANGES

	<p>are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited.</p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm cooperates means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, shares information on listed property, and makes property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients, and to cooperate. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.</p>
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SUMMARY OF MLS POLICY CHANGES

	<p>The key is that the Participant or potential Participant cooperates with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. M</p>
<p>Section 2 Association and MLS Compliance with National Association Policy (Policy Statement 7.17)</p>	<p>Those associations or multiple listing services found by the National Association to be operating under bylaws or rules and regulations not consistent with mandatory policies of the National Association are not entitled to errors and omissions insurance coverage and their charters are subject to review and revocation. I</p>
<p>Section 4 Inclusion of Exclusive Agency Listings in MLS Compilations and Databases (Policy Statement 7.41)</p>	<p>Multiple listing services shall not establish or maintain any rule or policy prohibiting inclusion of exclusive agency listings that would be otherwise acceptable for inclusion in the compilation of current listing information.</p>

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SUMMARY OF MLS POLICY CHANGES

	<p>Explanation: This policy shall not be construed as requiring Participants to accept exclusive agency listings if they determine acceptance is not in their best interest or the best interest of clients or customers. However, this policy does preclude collective agreements between Participants affiliated with different firms or others to refuse to accept exclusive agency listings. This policy contemplates multiple listing services will clearly distinguish between exclusive right-to-sell and exclusive agency listings in multiple listing compilations and databases to prevent confusion about the rights and obligations of brokers who cooperate in the sale of such listings. <i>(Amended)</i> M</p>
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<p>Section 8 Categorization of MLS Services, Information, and Products (Policy Statement 7.57)</p>	<p>Core: Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:</p> <ul style="list-style-type: none"> • active listing information M
<p>Section 18 Compensation Notice (Policy Statement 7.39)</p>	<p>It is recommended that MLSs publish the following notice to their general membership at least annually.</p> <p style="text-align: center;">Compensation Notice</p> <ol style="list-style-type: none"> 1. <i>A broker's compensation and fees for services are not set by law and are fully negotiable.</i> 2. <i>A broker's compensation for services rendered to a seller or for services rendered to a buyer is solely a matter of negotiation between the broker and their client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage service agreement.</i> 3. <i>The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker. (Amended) M</i>
<p>Section 21 Non-filtering of Listings (Policy Statement 8.5)</p>	<p>MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. (Amended) M</p>

SUMMARY OF MLS POLICY CHANGES

<p>Section 6 Services Advertised as “Free”</p>	<p>MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. M</p>
<p>Section 1 Statewide Data Sharing Defined (Policy Statement 8.10)</p>	<p>A statewide data share should deliver MLS data through a common technology interface (e.g., API) of all data fields to all Participants of MLSs in the statewide data share. However, the data should not include MLS-only data fields that are viewable only to the listing Participant and the respective local MLS.</p> <p>Note: Considerations should be given to:</p> <ul style="list-style-type: none"> • Inclusion of local data fields (non-RESO Standard fields). • Individual MLS’s “attached document” retention policies and state laws regarding the sharing and retention of documents related to a previous transaction (privacy laws). <p>R</p>
<p>Section 4 MLS Participation by Brokers Acting as Agents of Potential Purchasers (Policy Statement 7.40)</p>	<p>No association or association MLS may make or maintain a rule which would preclude an individual or firm, otherwise qualified, from participating in an association MLS solely on the basis that the individual or firm functions, to any degree, as the agent of potential purchasers under a contract between the individual (or firm) and the prospective purchaser (client). However, in instances where the Participant is representing the potential purchaser as an agent, the Participant cannot function simultaneously as the subagent of the listing broker without buyer and seller consent or as provided by state law; and must make his true position clearly known to all interested parties at first contact. <i>(Amended)</i> M</p>

**NEW MLS POLICY
STATEMENT 8.11****No Compensation Offers
in MLS**

The MLS must not accept listings containing an offer of compensation in the MLS to other MLS Participants and Subscribers. Further, the MLS may not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.

The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).

The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker

SUMMARY OF MLS POLICY CHANGES

	<p>compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>Note 1: Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in MLS rules, short sales are defined as a transaction where title transfers, where the sales price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose short sales when Participants know a transaction is a potential short sale. <i>(Amended)</i> M</p>
<p>NEW POLICY STATEMENT 8.12</p>	<p>Disclosure of Compensation: MLS Participants and Subscribers must:</p>

SUMMARY OF MLS POLICY CHANGES

<p>Required Consumer Disclosure</p>	<ol style="list-style-type: none"> 1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any). 2. Conspicuously disclose in writing to sellers, and obtain the seller’s authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M
<p><u>NEW POLICY STATEMENT 8.13</u></p> <p><u>Written Buyer Agreements Required</u></p>	<p><u>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. The written agreement must include:</u></p> <ol style="list-style-type: none"> a. <u>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.</u> b. <u>the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> c. <u>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</u> d. <u>a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> <p>M</p>

SUMMARY OF MLS POLICY CHANGES

<p>Section 2 Purpose</p>	<p>A multiple listing service is a means by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. <i>(Amended)</i> M</p>
<p>Section 3 (or 4) Participation</p>	<p>Any REALTOR® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and cooperate, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.** Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an</p>

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SUMMARY OF MLS POLICY CHANGES

	<p>association multiple listing service where access to such information is prohibited by law. <i>(Amended)</i></p> <p>Mere possession of a broker’s license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). “Actively” means on a continual and ongoing basis during the operation of the Participant’s real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.</p> <hr/> <p>*Optional qualifications which may be adopted at the local association’s discretion: Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (30) days after access has been provided. <i>(Amended 11/96)</i></p>
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	<p>Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR® (principal) membership in an association. However, if the association wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established. <i>(Amended 2/94)</i></p> <p>**Generally, associations of REALTORS®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS participant. If each principal is defined as a participant, then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered participants in the service, but have access to and use of the service through the principal(s) with whom they are affiliated.</p> <p>The key is that the Participant or potential Participant actively endeavors to cooperate with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants.</p> <p>Optional Provision for Establishing Nonmember Participatory Rights (Open MLS)* A nonmember applicant</p>
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	<p>for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the membership committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license and cooperate or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. <i>(Amended)</i></p>
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*Only adopt the following paragraph if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere).

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. *(Adopted 11/08)*

The key is that the Participant or potential Participant cooperate with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. This requirement does not

SUMMARY OF MLS POLICY CHANGES

	<p>permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. M</p>
<p>Section 1 Listing Procedures</p>	<p>Listings of real or personal property of the following types, which are listed subject to a real estate broker’s license, and are located within the service area of the multiple listing service, and are taken by Participants on <i>(indicate form[s] of listing[s] accepted by the Service — See Notes 1 and 2)</i> shall be delivered to the multiple listing service within _____ (usually 48) hours after all necessary signatures of seller(s) have been obtained: <i>(Amended 11/17)</i></p> <ul style="list-style-type: none"> a. single family homes for sale or exchange b. vacant lots and acreage for sale or exchange c. two-family, three-family, and four-family residential buildings for sale or exchange <p>Note 1: The multiple listing service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service.</p>

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	<p>However, the multiple listing service, through its legal counsel:</p> <ul style="list-style-type: none"> • may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants • assure that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller) <p>The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to cooperate with other Participants of the multiple listing service acting as subagents, buyer agents, or both. <i>(Amended)</i></p> <p>The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. <i>(Amended 11/96)</i></p> <p>The different types of listing agreements include:</p> <ul style="list-style-type: none"> • exclusive right-to-sell • exclusive agency • open • net <p>The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because the inherent nature of an open listing Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</p>
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	<p>The exclusive right-to-sell listing is the form of listing where the seller exclusive authorization to the listing broker to cooperate with other brokers in the sale of the property. <i>(Amended)</i></p> <p>The exclusive agency listing also authorizes the listing broker as exclusive agent, to cooperate with other brokers in the sale of the property, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.</p> <p>Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. <i>(Amended 4/92)</i></p> <p>Note 2: A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.</p>
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	<p>Note 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. M</p>
<p>Section 1.9 No Control of Commission Rates or Fees Charged by Participants</p>	<p>The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants. M</p>
<p>Section 4.5, Services Advertised as “Free”</p>	<p>MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. <i>(Amended 11/21)</i> M</p>
<p>NEW RULE UNDER “PROHIBITIONS”</p> <p>Section 4.6, No Filtering of Listings</p>	<p>Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. M</p>
<p>Section 5 No Compensation Specified on MLS Listings</p>	<p>Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.</p> <p>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in</p>

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	<p>the MLS terminating that Participant’s access to any MLS data and data feeds.</p> <p>Note 1: The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>Note 2: The multiple listing service shall make no rule on the division of commissions between Participants and non-Participants. This should remain solely the responsibility of the listing broker.</p> <p>Note 3: Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. <i>(Amended)</i> M</p>
<p>NEW SECTION 5.0.0 Required Consumer</p>	<p>Disclosures of Compensation: MLS Participants and Subscribers must:</p>

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<p>Disclosure</p>	<ol style="list-style-type: none"> 1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any). 2. Conspicuously disclose in writing to sellers, and obtain the seller’s authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M
<p><u>NEW SECTION 5.0.2</u></p> <p><u>Written Buyer Agreement</u></p>	<p><u>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. The written agreement must include:</u></p> <ol style="list-style-type: none"> a. <u>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;</u> b. <u>the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> c. <u>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</u> d. <u>a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> <p>M</p>

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<p>Standard 16.15</p>	<p>On unlisted property, MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. <i>(Amended)</i> ○</p>
<p>Appendix 1 Section 2 National Association's Interest</p>	<p>The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS®. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). <i>(Amended)</i>. </p>

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Executive Summary

Pursuant to the requirements of the proposed Settlement Agreement, the MLS policies and model MLS governing documents were reviewed and updated with the key changes below.

1. Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
2. Retain, and define, "cooperation" for MLS Participation.
3. Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
4. Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
5. Require the MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.
6. Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with the MLS terminating the Participant's access to any MLS data and data feeds.
7. Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
8. Require compensation disclosures to sellers, and prospective sellers and buyers.
9. Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

These policy changes were approved by the NAR Leadership Team and will be effective on August 17.

For additional information go to: <https://www.nar.realtor/the-facts>.

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Section #	Policy Language
<p>Section 1 Multiple Listing Service (MLS) Defined</p>	<p>A multiple listing service is:</p> <ul style="list-style-type: none"> • a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and customers and the public • a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) • a means of enhancing cooperation among Participants • a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers • a means by which Participants engaging in real estate appraisal contribute to common databases <i>(Revised 11/04)</i> <p>Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease). <i>(Revised 11/94)</i></p> <p>While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional,* a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a</p>

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	<p>commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. <i>(Revised 11/98)</i></p> <hr/> <p>*Compensation is unconditional except where local MLS rules permit listing brokers to reserve the right to reduce compensation offers to cooperating brokers in the event that the commission established in a listing contract is reduced by court action. Refer to Part Two, C., Section 1, Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS®, Handbook on Multiple Listing Policy. (Adopted 11/98, Revised 11/09) M</p>
<p>Section 2 Definition of MLS Participant (Policy Statement 7.9)</p>	<p>Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word Participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association</p>

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	<p>membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. <i>(Amended 11/08)</i></p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation <u>cooperates</u> means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, <u>shares information on listed property, and makes property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients,</u> and /or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business</p>
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	<p>interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. <i>(Adopted 11/08)</i></p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation<u>cooperates</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation<u>cooperate</u>. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation<u>cooperate</u> only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants... M</p>
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<p>Section 2 Association and MLS Compliance with National Association Policy (Policy Statement 7.17)</p>	<p>Those associations or multiple listing services found by the National Association to be operating under bylaws or rules and regulations not consistent with mandatory policies of approved by the National Association are not entitled to errors and omissions insurance coverage and their charters are subject to review and revocation. I</p>
<p>Section 4 Inclusion of Exclusive Agency Listings in MLS Compilations and Databases (Policy Statement 7.41)</p>	<p>Multiple listing services shall not establish or maintain any rule or policy prohibiting inclusion of exclusive agency listings that would be otherwise acceptable for inclusion in the compilation of current listing information.</p> <p>Explanation: This policy shall not be construed as requiring Participants to accept exclusive agency listings if they determine acceptance is not in their best interest or the best interest of clients or customers. However, this policy does preclude collective agreements between Participants affiliated with different firms or others to refuse to accept exclusive agency listings. or to refuse to accept offers of compensation extended through the multiple listing service or otherwise. This policy contemplates multiple listing services will clearly distinguish between exclusive right-to-sell and exclusive agency listings in multiple listing compilations and databases to prevent confusion about the rights and obligations of brokers who cooperate in the sale of such listings. (Amended 7/04) M</p>

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<p>Section 8 Categorization of MLS Services, Information, and Products (Policy Statement 7.57)</p>	<p>Core: Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:</p> <ul style="list-style-type: none"> • active listing information ← information communicating compensation to potential cooperating brokers... M
<p>Section 18 <u>Compilation of Current Listing Information Compensation Notice</u> (Policy Statement 7.39)</p>	<p>Any compilation of current listing information shall display the following notice in a conspicuous manner:</p> <p><u>It is recommended that MLSs publish the following notice to their general membership at least annually.</u></p> <p style="text-align: center;"><u>Compensation Notice to Association Members</u> Under the long-established policy of this association, the (state) association of REALTORS®, and the NATIONAL ASSOCIATION OF REALTORS®:</p> <p><u>1. A broker's compensation and fees for services are not set by law and are fully negotiable.</u></p> <p>2. The<u>A</u> broker's compensation for services rendered in respect to any listing to a seller or for services rendered to a buyer <u>is solely a matter of negotiation between the broker and his or her their client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage listing agreement service agreement.</u></p> <p><u>2-</u></p>

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	<p><u>2.3.</u> <i>The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker. (Amended 4/92)</i></p> <p>In addition, it is recommended that all associations publish this notice to their general membership at least annually. Every association operating a multiple listing service is required to certify to the National Association that the notice to association members concerning the negotiability of brokerage commissions, subagency compensation, and compensation to buyer's agents has been reproduced in their compilation of current listing information. Further, associations that do not operate an MLS shall publish the notice to association members in their newsletter or other vehicle for membership information dissemination and shall so certify to the National Association. (Amended 11/88) M</p>
<p>Section 21 Non-filtering of Listings (Policy Statement 8.5)</p>	<p>MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are searchable by and displayed <u>communicated</u> to consumers <u>customers or clients</u> based on the <u>existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.</u> <i>(Amended Adopted 11/21)</i> M</p>
<p>Section 6 Services Advertised as “Free”</p>	<p>MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. M</p>
<p>Section 1 Statewide Data Sharing Defined (Policy Statement 8.10)</p>	<p>A statewide data share should deliver MLS data through a common technology interface (e.g., API) of all data fields, <u>including offers of compensation,</u> to all Participants of MLSs</p>

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	<p>in the statewide data share. However, the data should not include MLS-only data fields that are viewable only to the listing Participant and the respective local MLS.</p> <p>Note: Considerations should be given to:</p> <ul style="list-style-type: none"> • Inclusion of local data fields (non-RESO Standard fields). • Any different compensation models such as a percentage of the net vs. gross sales price, tiered commission arrangements, and other models that are used by Participants in MLSs. • Individual MLS's "attached document" retention policies and state laws regarding the sharing and retention of documents related to a previous transaction (privacy laws). R
<p>Section 4 MLS Participation by Brokers Acting as Agents of Potential Purchasers (Policy Statement 7.40)</p>	<p>Since the MLS is an association service by which the participants make a blanket unilateral offer of compensation to the other participants with respect to listings for which they are an agent, n<u>No</u> association or association MLS may make or maintain a rule which would preclude an individual or firm, otherwise qualified, from participating in an association MLS solely on the basis that the individual or firm functions, to any degree, as the agent of potential purchasers under a contract between the individual (or firm) and the prospective purchaser (client). However, in instances where the Participant is representing the potential purchaser as an agent, the Participant cannot function simultaneously as the subagent of the listing broker without buyer and seller consent or as provided by state law; cannot accept compensation from the listing broker without the express consent of all parties to the</p>

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	<p>transaction, and must make his true position clearly known to all interested parties at first contact. (Amended 11/96) M</p>
<p>Section 5 Facilitators/Intermediaries as MLS Participants (Policy Statement 7.53)</p>	<p>In states where real estate brokers are authorized by law to act in a defined non-agency capacity such as facilitators or intermediaries, or where the state attorney general or the state authority regulating licensees indicates in writing that acting in such a capacity is consistent with state law, multiple listing services may adopt rules and procedures to enable participants, as listing brokers, to offer cooperation and compensation to such individuals or firms. (Amended 11/94) O</p>
<p>G. Commission/Cooperative Compensation Offers</p> <p>Section 1 Information Specifying the No Offer of Compensation on Each Listings Filed with a Multiple Listing Service of an Association of REALTORS® (Policy Statement 7.23)</p> <p><u>NEW MLS POLICY STATEMENT 8.11</u></p> <p><u>No Compensation Offers in MLS</u></p>	<p>In filing property with the multiple listing service, participants make blanket unilateral offers of compensation to the other MLS Participants. The MLS must not accept listings containing an offer of compensation in the MLS to other MLS Participants and Subscribers. Further, the MLS may not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.</p> <p><u>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.</u></p> <p>The multiple listing service shall<u>must</u> not have a rule requiring the listing broker to disclose the amount of total</p>

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	<p>negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service shall not <u>must prohibit</u> disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>shall therefore specify on each listing filed with the service the compensation being offered by the listing broker to the other MLS participants. This is necessary because cooperating participants have the right to know what their compensation will be prior to commencing their efforts to sell.* (Revised 11/04)</p> <hr/> <p>*Relates to Point No. 2 of the MLS antitrust compliance policy.</p> <p>The listing broker retains the right to determine the amount of compensation offered to subagents, buyer agents, or to brokers acting in other agency or nonagency capacities, which may be the same or different. (Revised 11/06)</p> <p>This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on his listings as published by the MLS, provided the listing broker informs the other broker in writing in advance of their submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 05/10)</p>
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~~While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional (except where MLS rules create specific exceptions as specified elsewhere in this policy statement), a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a Commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the Commission established in the listing agreement, at what point in the transaction did the listing broker know (or should have known) that some or all of the Commission established in the listing agreement might not be paid, and how promptly had the listing broker communicated to cooperating brokers that the Commission established in the listing agreement might not be paid. (Amended 11/98)~~

The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service shall must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker

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	<p><u>compensation (i.e. combined compensation to both listing brokers and buyer brokers).</u></p> <p>Note 1: The compensation specified on listings filed with the multiple listing service by the participants of the service shall be expressed as a percentage of the gross sales price or as a definite dollar amount. Multiple listing services may, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). The essential and appropriate requirement by a multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of their submitting an offer to purchase. <i>(Amended 5/10)</i></p> <p>Multiple listing services shall not publish listings that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount, nor shall they include general invitations by listing brokers to other participants to discuss terms and conditions of possible cooperative relationships. <i>(Amended 11/96)</i></p> <p>Note 2: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross Commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may</p>
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~~be reduced if the gross Commission established in the listing contract is reduced by a court. In such instances, the fact that the gross Commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction.~~
(Amended 5/10)

~~**Note 3:** Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in MLS rules, short sales are defined as a transaction where title transfers, where the sales price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose short sales when Participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, be permitted to communicate to other participants how any reduction in the gross Commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants. Where participants are permitted to communicate to other participants how any reduction in the gross Commission established in the listing contract required by the lender as a condition of approving~~

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	<p>the sale will be apportioned between the listing and cooperating participants, multiple listing services may, as a matter of local discretion, require listing participants to disclose to cooperating participants in writing the total reduction in the gross Commission and the amount by which the compensation payable to the cooperating broker will be reduced within _____ hours of receipt of notification from the lender. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers. (Amended 5/16) M</p>
<p>NEW POLICY STATEMENT 8.12</p> <p>Required Consumer Disclosure</p>	<p><u>Disclosure of Compensation: MLS Participants and Subscribers must:</u></p> <ol style="list-style-type: none"> 1. <u>Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).</u> 2. <u>Conspicuously disclose in writing to sellers, and obtain the seller’s authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M</u>

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<p><u>NEW POLICY STATEMENT 8.13</u></p> <p><u>Written Buyer Agreements Required</u></p>	<p><u>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. The written agreement must include:</u></p> <ul style="list-style-type: none"><u>a. 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.</u><u>b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u><u>c. 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</u><u>d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> <p>M</p>
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<p>Section 2 Purpose</p>	<p>A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law), by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of sale (or lease). (Amended 11/04) M</p>
<p>Section 3 (or 4) Participation</p>	<p>Any REALTOR® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other participants cooperate, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.** <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in</u></p>

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	<p><u>the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. (<i>Amended 7/08</i>)</p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. <u>share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u></p> <p>"Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on</p>
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	<p>the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.</p> <hr/> <p>*Optional qualifications which may be adopted at the local association's discretion: Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (30) days after access has been provided. <i>(Amended 11/96)</i></p> <p>Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR® (principal) membership in an association. However, if the association wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established. <i>(Amended 2/94)</i></p> <p>**Generally, associations of REALTORS®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS participant. If each principal is defined as a participant, then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered participants in the service, but have access to and use of the service through the principal(s) with whom they are affiliated.</p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers and compensation <u>cooperate</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the</p>
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	<p>Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation <u>cooperate</u>. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation <u>cooperate</u> only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. <i>(Adopted 11/08)</i></p> <p>Optional Provision for Establishing Nonmember Participatory Rights (Open MLS)* A nonmember applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the membership committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license <u>and cooperate</u> and offer or accept compensation to and from other participants, or are licensed or certified by an</p>
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	<p>appropriate state regulatory agency to engage in the appraisal of real property. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant’s licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. (Amended 7/08)</p> <hr/> <p>*Only adopt the following paragraph if the association’s MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere).</p> <p>Mere possession of a broker’s license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation <u>cooperate</u> means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, <u>share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s) and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS.</u> “Actively” means on a continual and ongoing basis during the operation of the Participant’s real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that</p>
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	<p>operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. <i>(Adopted 11/08)</i></p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation <u>cooperate</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate, make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to <u>cooperate</u> offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner</p>
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	<p>to all Participants and potential Participants. <i>(Adopted 11/08)</i></p> <p>M</p>
<p>Section 1 Listing Procedures</p>	<p>Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the service area of the multiple listing service, and are taken by Participants on <i>(indicate form[s] of listing[s] accepted by the Service — See Notes 1 and 2)</i> shall be delivered to the multiple listing service within _____ (usually 48) hours after all necessary signatures of seller(s) have been obtained: <i>(Amended 11/17)</i></p> <ol style="list-style-type: none"> a. single family homes for sale or exchange b. vacant lots and acreage for sale or exchange c. two-family, three-family, and four-family residential buildings for sale or exchange <p>Note 1: The multiple listing service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:</p> <ul style="list-style-type: none"> • may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants • assure that no listing form filed with the multiple

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	<p>listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)</p> <p>The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation cooperate with to the other Participants of the multiple listing service acting as subagents, buyer agents, or both. <i>(Amended 11/96)</i></p> <p>The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. <i>(Amended 11/96)</i></p> <p>The different types of listing agreements include:</p> <ul style="list-style-type: none"> • exclusive right-to-sell • exclusive agency • open • net <p>The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because the inherent nature of an open listing <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients</u> is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. <i>(Amended 4/92)</i></p> <p>The exclusive right-to-sell listing is the conventional form of listing submitted to the multiple listing service in that where</p>
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the seller ~~authorizes- exclusive authorization to~~ the listing broker to cooperate with ~~and to compensate~~ other brokers in the sale of the property. *(Amended 4/92)*

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to ~~offer cooperat~~ion with other brokers in the sale of the property and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.

Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. *(Amended 4/92)*

Note 2: A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

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	<p>Note 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.</p> <p><i>(Adopted 11/92)</i> M</p>
<p>Section 1.9 No Control of Commission Rates or Fees Charged by Participants</p>	<p>The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants. M</p>
<p>Section 4.5, Services Advertised as “Free”</p>	<p>MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. <i>(Amended 11/21)</i> M</p>
<p>NEW RULE UNDER “PROHIBITIONS</p> <p>Section 4.6, No Filtering of Listings</p>	<p><u>Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.</u></p> <p>M</p>
<p>Division of Commissions</p> <p>Section 5 <u>No Compensation Specified on MLS Each Listings</u></p>	<p>The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker’s performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule.</p>

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~~The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.~~

~~*(Amended 11/98)*~~

~~In filing a property with the multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.*~~

~~*(Amended 11/96)*~~

~~*The compensation specified on listings filed with the multiple listing service shall appear in one of two forms. The essential and appropriate~~

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	<p>requirement by an association multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:</p> <ol style="list-style-type: none"> 1. by showing a percentage of the gross selling price 2. by showing a definite dollar amount <i>(Amended 5/10)</i> <p>Note: MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). <i>(Adopted 5/08)</i></p> <p>While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define “seller concessions” for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of “seller concessions” is suggested but not required for adoption:</p> <p>Points paid by seller on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. <i>(Adopted 05/12)</i></p> <p>The listing broker retains the right to determine the amount of compensation offered to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) which may be the same or different. <i>(Amended 11/96)</i></p> <p>This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the</p>
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	<p>MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 5/10)</p> <p><u>Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.</u></p> <p><u>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.</u></p> <p>Note 1: The multiple listing service shall<u>must</u> not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The association multiple listing service shall<u>must prohibit not</u> disclosing in any way the total commission negotiated between the seller and the listing broker, <u>or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</u></p>
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	<p>Note 2: The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. (Amended 4/92)</p> <p>Note 3: The multiple listing service shall make no rule on the division of commissions between Participants and non-Participants. This should remain solely the responsibility of the listing broker.</p> <p>Note 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Amended 5/10)</p> <p>Note 5: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. (Adopted 11/05)</p>
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	<p>Note 36: Multiple listing services must give pParticipants the ability to disclose to other pParticipants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers.</p> <p><i>(Amended 5/09) M</i></p>
<p><u>NEW SECTION 5.0.0</u></p> <p><u>Required Consumer Disclosure</u></p>	<p><u>Disclosures of Compensation: MLS Participants and Subscribers must:</u></p> <ol style="list-style-type: none"> <u>1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).</u>

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	<p><u>2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M</u></p>
<p>Section 5.0.1 Disclosing Potential Short Sales</p>	<p>For Options #1 or #2: As a matter of local discretion, MLSs may, but shall not be required to, adopt the following rule:</p> <p>When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. (Adopted 5/09)</p> <p>MLSs that adopt the discretionary provision shown immediately above may, but are not required to, adopt the following rule: Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within _____ hours of receipt of notification from the lender. (Adopted 5/10)</p>

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<p><u>NEW SECTION 5.0.2</u></p> <p><u>Written Buyer Agreement</u></p>	<p><u>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. The written agreement must include:</u></p> <ul style="list-style-type: none"> <u>a. 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;</u> <u>b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> <u>c. 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</u> <u>d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable. M</u>
<p><u>Section 5.3 Dual or Variable Rate Commission Arrangements</u></p>	<p><u>The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant</u></p>

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	<p>representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 5/01) M</p>
<p>Section 5.4, Display of Listing Broker's Offer of Compensation</p>	<p>Participants and subscribers who share the listing broker's offer of compensation for an active listing must display the following disclaimer or something similar.</p> <p><i>The listing broker's offer of compensation is made only to participants of the MLS where the listing is filed. (Amended 11/21) M</i></p>
<p>Section 6 Service Fees and Charges</p>	<p>Optional: It is a matter of agreement between the listing and selling brokers as to whether or not the cooperating broker shall reimburse the listing broker for the listing fee. The multiple listing service shall not be concerned because this is an arrangement between cooperating brokers, and the multiple listing service rules do not dictate the compensation offered to cooperating brokers by the listing broker. (Amended 4/92). O</p>

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<p>Standard 16.3</p>	<p>MLS participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/04) ○</p>
<p>Standard 16.11</p>	<p>In cooperative transactions, MLS participants shall compensate cooperating MLS participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS participants without the prior express knowledge and consent of the cooperating broker. ○</p>
<p>Standard 16.15</p>	<p>On unlisted property, MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. <i>(Amended 1/04)</i></p> <p>MLS participants shall make any request for anticipated compensation from the seller/landlord at first contact. ○</p>
<p>Standard 16.18</p>	<p>MLS participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/04) ○</p>

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<p>Standard 16.21</p>	<p>These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS participants involving commission, fees, compensation, or other forms of payment or expenses. ☉</p>
<p>Appendix 1</p> <p>Section 2 National Association's Interest</p>	<p>The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS®. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u> by extending to them a blanket unilateral offer of compensation. If any significant group of REALTORS® desires to establish a means of extending blanket unilateral offers of compensation, the association should establish an MLS to enable them to achieve such objective. <i>(Amended 11/96).</i> </p>
<p>Appendix 2</p> <p>Merging an Independent MLS with an Association of REALTORS®</p>	<p>The association MLS offers its REALTOR® participants the advantages of being able to clearly identify those persons to whom they offer compensation, knowing that they as REALTORS® and REALTOR-ASSOCIATE®s are all bound and directed by the Code of Ethics, knowing that they have agreed to arbitrate in the event of a dispute and have obligated themselves, as membership duties, to abide by the constitution and bylaws of the local association, the state and National Association. <i>(Amended 11/96).</i> </p>