

# Student Manual



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## 2025 MANDATORY Navigating the NEW NORMAL

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NEW ORLEANS METROPOLITAN ASSOCIATION OF REALTORS®

8970

Developed by:

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ABR, AHWD, CRB, GRI, PSA,  
RENE, SFR, SRS, SRES

A Louisiana Real Estate Commission Publication

# Course Syllabus

## 2025 Mandatory – Navigating the NEW NORMAL

### Course Completion Requirements

Students must be present for the full four (4) hours if a live presentation. Students taking Internet based presentations must complete all quizzes and exams with a score of at least 70%. An identity affidavit attesting to the fact that the student has personally completed the course without assistance must be submitted before a certificate of completion is granted.

### Vendor Policies and Regulations:

**Prerequisites:** There are no educational prerequisites for this course.

**Registration:** Any attempt to take this course under an assumed identity will forfeit your right to receive a certificate of completion and may result in sanctions by the Louisiana Real Estate Commission.

**Attendance:** Students attending a live presentation must sign in before the course and sign out after the course; this course is a four (4) hour presentation, and 100% attendance is required to receive credit for completion. Credit shall not be granted for partial attendance. No exceptions!

**Tardiness/Absences:** Credit shall not be granted for late arrivals, excessive absences, and/or early departures. Students are not allowed to make up missed portions of a course.

**Course Participation:** Instructors may not, in any venue, answer questions of a personal or legal nature, and students should not interpret any information received from instructors or course content as being legal advice.

**Classroom Rules of Conduct:** To provide an atmosphere conducive to learning, students must turn off all electronic devices prior to the start of class. Newspapers, books, magazines, or any other reading materials are not permitted during class presentation. Violations may result in loss of continuing education credit

**ADA Compliance:** Upon request, reasonable accommodations will be provided to individuals with a documented disability to assure that an equal opportunity to participate in this course is provided. For further information, contact our office.

### **Vendor Contact Information:**

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This publication is for reference purposes only and readers are responsible for contacting their own attorneys or other professional advisors for legal or contract advice. The comments provided herein solely represent the opinions of the authors and are not a guarantee of interpretation of the law or contracts by any court or by the Louisiana Real Estate Commission.

**Important Note:** LREC licensees are not required to be a member of any REALTOR® association.

# STUDENT MANUAL

## LREC 2025 MANDATORY CE

### Navigating the

**N**EW  
N O R M A L



nor the sponsors are giving legal advice. Before taking any action, participants should check with their managing broker, attorney, accountant, etc.

# Table of Contents

## Current Legal Issues

- How we got here 2
- Lawsuits 2
- NAR Settlement 2

## Agency Duties – The License Law

- Duties to Clients 3
- Relationship with Customers 3
- Ministerial Acts 3
- Buyer Agreements 4
- Buyer Broker Compensation 4

## Seller Consultation / Listing Presentation

- Experience and Attitudes 4
- Creating Value Proposition 4
- Learn What's Important to Them 5
- Create a Marketing Plan 6
- What – How -Why 8
- Pledge of Performance 9
- Compensation Conversation 10
- Compensation Options 10
- Handling Bonuses 12
- Buyers Without Representation 12

## Top 3 Buy-Side Concerns

### #1 Buyers Don't Want to Sign

- Attitude Influences Behavior 15
- Mindset Shift – Strategic Action 15
- Why Buyers' Hesitate 15

### #2 Feel Like I'm Bragging 16

- Buyer Counseling Session 17
- YOUR Value Proposition 17
- Explain Buying Process 19
- Tools to Show Your Value 19
- Pledge of Performance 21

### #3 How Will We Get Paid?

- Buyer Representation Agreement 21
- Comparison of Louisiana Realtors Agreements 22
- Compensation Conversation 24
- Buyer Viewing Choices 24

## Offer and Negotiating Phase

- Listing Side – Licensee's Duties 27
- Buying Side – Licensee's Duties 27

## Appraisal-Valuation Issues

- Discussion and Evaluation 28
- GSE Letters on Compensation 33

## Resources and References

- Tools for Communication 35
- Buyer Qualification Worksheet 39
- Buyer Representation Agreement 41
- Managing Broker – Office Policy Considerations 48
- Value Proposition Notes 49
- Handling Objections 50

No discussion in this class is intended to fix, control, recommend or suggest the compensation or fees charged for real estate brokerage services. The Louisiana Real Estate Commission as well as the State and Local Associations and MLS's do not recommend or suggest any compensation amounts. Any discussion in class that contains specific percentages or dollar amounts will be immediately stopped.

Any participant who continues to violate the antitrust policy will be asked to leave the session.

## What You Will Learn

### Current Legal Issues

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- What the lawsuits contained and how they led to the changes
- What is – and is not – a part of the settlement

### Agency Duties – The License Law

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- Understand your duties and responsibilities as an agent
- Recognize how your relationship is formed
- Be aware of the limitations when doing Ministerial Acts

### Seller Consultation / Listing Presentation

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- Conduct a successful counseling session with the sellers that educates the seller, builds trust and leads to a signed listing agreement.
- Articulate your value proposition to the seller – what you do – how you do it and why it is important to them.
- Have an open and transparent conversation about compensation – both to the listing brokerage and the buyer brokerage.

### Top 3 Buy-Side Concerns

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- Addressing the top concerns that most agents have with the new requirements of having a buyer representation agreement signed and establishing compensation.
- Conduct a successful counseling session with the buyers that educates them, builds trust and leads to a signed buyer representation agreement.
- Have an open and transparent conversation about compensation – what your value is to them in the transaction and how they can accommodate payment.

### Offer and Negotiating Phase

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- Understand the importance of our role in negotiating on both the buyer and seller side of the transaction.
- As a buyer agent – how to prepare the buyers for the negotiating process and write an offer that has a reasonable chance of being accepted.
- As a seller agent – how to counsel sellers and assist them in creating a counteroffer that meets their financial needs without making it 'all about the compensation'.

### Appraisal-Valuation Issues

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Analyze the most up to date information we have on a constantly changing landscape of how the compensation – and whether it is paid or not paid by the sellers – will affect the CMA and appraisal process by looking at information from appraisers and FNMA.

## Current Legal Issues

The current legal issues facing the real estate profession have been discussed in many venues and are constantly changing as they work their way through the courts and we wait to see what the next steps the DOJ takes and what will happen with the NAR Settlement.

Here's a summary of where we're at:

- A variety of lawsuits have been filed claiming that sellers are being forced to pay buyer brokerage compensation with no negotiation, that buyer agents serve no purpose, and they steer their buyers to listings that offer higher compensation – even if those are not the best choices for the buyers.
- The Department of Justice (DOJ) filed a lawsuit that was the precursor to the change in Code of Ethics Standard of Practice 12-1 that now reads: *REALTORS® must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless REALTOR® will receive no financial compensation from any source for those services. (Amended 1/22)*
- The DOJ is continuing to comment on the pending lawsuits, proposed NAR settlement as well as their intent to open up further investigation of other issues, specifically the Clear Cooperation policy which is currently under review. Here is a brief overview of what the policy is:
  - Policy Overview: The Clear Cooperation Policy mandates that within one business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants.
  - Public Marketing: Includes any information about the property displayed on signs, websites, social media, communications, flyers, open houses, or showings.
  - Status Details: Properties can be listed under Registered, Coming Soon, or Active status, each with specific rules regarding marketing, showings, and distribution.
  - Exclusions: Sellers can exclude their property from the MLS, but no public marketing is allowed. If public marketing occurs, the property must be entered into the MLS within one business day.
- NAR has proposed a settlement agreeing to no longer offer buyer-brokerage compensation in the MLS and require REALTORS® use written representation agreements with buyers.
  - The initial implementation of the settlement began August 17, 2024, or possibly earlier depending on your MLS.
  - A final hearing is set for November 26, 2024, in Kansas City, Missouri.

What does this mean to you – agents with boots on the ground, listing and selling property?

- Our conversations are changing on both the listing as well as the buying side – transparency and full disclosure are imperative.
- It will be more important than ever that we effectively communicate our value proposition to our clients.
- Our practices need to change – we need a buyer rep agreement signed prior to showing property and to ensure we get paid.

The settlement does not change anything that you have been doing relative to your agency relationships, when they are formed or duties of disclosure and education as to the types of agency relationships available in Louisiana. What does change is the requirement that you use a buyer representation agreement and disclose clearly the compensation the buyer will be responsible for.

We will cover the buyer representation agreement in this course, but for now, let's make sure we are all on the same page with the license law and the agency duties it mandates – on both sides of the transaction.

## **Agency Duties – The License Law**

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### **§ 3893. Duties of Licensees Representing Clients**

A. A licensee representing a client shall:

- (1) Perform the terms of the brokerage agreement between a broker and the client.
- (2) Promote the best interests of the client by:
  - (a) Seeking a transaction at the price and terms stated in the brokerage agreement or at a price and upon terms otherwise acceptable to the client.
  - (b) Timely presenting all offers to and from the client.
  - (c) Timely accounting for all money and property received in which the client has, may have, or should have had an interest.
- (3) Exercise reasonable skill and care in the performance of brokerage services.

- B. A licensee representing a client does not breach a duty or obligation to the client by showing alternative properties to prospective buyers or tenants or by showing properties in which the client is interested to other prospective buyers or tenants.
- C. A licensee representing a buyer or tenant client does not breach a duty or obligation to that client by working on the basis that the licensee shall receive a higher fee or compensation based on a higher selling price.
- D. A licensee shall not be liable to a client for providing false information to the client if the false information was provided to the licensee by a customer unless the licensee knew or should have known the information was false.
- E. Nothing in this Section shall be construed as changing a licensee's legal duty as to negligent or fraudulent misrepresentation of material information.
- F. Nothing in this Chapter or in Chapter 17 of Title 37 shall be construed as to require agency disclosure with regard to a lease that does not exceed a term of three years and under which no sale of the subject property to the lessee is contemplated

### **§ 3894. Licensees Relationship with Customers**

- A. Licensees shall treat all customers honestly and fairly and when representing a client in a real estate transaction may provide assistance to a customer by performing ministerial acts. Performing those ministerial acts shall not be construed in a manner that would violate the brokerage agreement with the client, and performing those ministerial acts for the customer shall not be construed in a manner as to form a brokerage agreement with the customer.
- B. A licensee shall not be liable to a customer for providing false information to the customer if the false information was provided to the licensee by the licensee's client or client's agent and the licensee did not have actual knowledge that the information was false.

**§ 3891. Definitions: "Ministerial acts"** means those acts that a licensee may perform for a person that are informative in nature. Examples of these acts include but are not limited to:

- A. Responding to phone inquiries by persons as to the availability and pricing of brokerage services.
- B. Responding to phone inquiries from a person concerning the price or location of property.
- C. Conducting an open house and responding to questions about the property from a person.
- D. Setting an appointment to view property.



- E. Responding to questions from persons walking into a licensee's office concerning brokerage services offered or particular properties.
- F. Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property.
- G. Describing a property or the property's condition in response to a person's inquiry.
- H. Completing business or factual information for a person represented by another licensee on an offer or contract to purchase.
- I. Showing a person through a property being sold by an owner on his or her own behalf.
- J. Referral to another broker or service provider

#### **§1448.4. Buyer Agreements; requirements; authorization; exceptions – Act 690**

##### **A. Buyer Agreements**

1. A buyer agreement shall be executed between a broker and a buyer.
2. The buyer agreement shall include the amount of compensation payable to the broker or the manner in which the amount of compensation payable to the broker shall be calculated.
3. The buyer agreement may provide that sources of broker compensation may include but is not limited to funds from a buyer, a seller, a listing agent, or any combination thereof.

##### **B. This Section shall not apply in the following circumstances:**

1. When a person leases or seeks to lease a home with the services of a real estate licensee.
2. When a person leases or purchases, or seeks to lease or purchase, property other than a home with the services of a real estate licensee.

#### **Definitions For This Section**

"Buyer agreement" means a written document signed by a broker and a buyer detailing the services to be provided by the broker to the buyer.

"Buyer" means a person who utilizes the services of a real estate licensee in connection with the purchase, or the submission of an offer to purchase, a home, or who utilizes, or seeks to utilize, the services of a real estate licensee with the objective or purported objective or entering into a contract to purchase a home.

"Home" means residential real property consisting of one or not more than four residential dwelling units, which are buildings or structures each of which is occupied or intended for occupancy as a single-family residence.

#### **§3503. Buyer Broker Compensation; Written Disclosure and Acknowledgment**

Buyer broker compensation shall not be included as part of closing costs paid by the seller, unless such compensation is disclosed in a written offer and accepted by the seller, which specifically states the amount of compensation being paid to the licensee.

## **The Seller Consultation / Listing Presentation**

It is inevitable that as the lawsuits and the DOJ decisions become more mainstream, we will be questioned about our level of compensation. We have always needed to articulate our value proposition to the sellers, but it will now become more important than ever that we show them what we do – how we do it – why it's a benefit to them and why we are worth what we are asking to be paid.

Jimmy Burgess, in his Inman article *"7 Brutally Honest Truths You Need to Hear Right Now"*, 9/12/24 <https://bit.ly/3Xygmnu> was quoted as saying:

*When we have a market like we saw during the pandemic with escalating prices, elevated numbers of transactions, and multiple offers, the market makes us look better than we are. This can lead to complacency, and our ego can tell us that we have everything figured out.*

*But in the current market environment, with increasing days on market, fewer transactions, and difficulty getting transactions closed, the market can make us look worse than we are. This should lead us to refocus on our skills.*

Almost 1/3 of REALTOR®s got licensed in 2020 or after. They have never experienced anything but a sellers' market – and sometimes don't understand what it takes to keep a seller happy for extended periods of time when their homes are not selling for months!

If you are in that category – you will need to sharpen your skills and get some help on what it really means to be a listing agent other than sorting through multiple offers!

## 2024 Member Profile

PERCENT OF REALTORS® IN THE CATEGORY	REAL ESTATE EXPERIENCE				
	ALL REALTORS®	2 YEARS OR LESS	3 TO 5 YEARS	6 TO 15 YEARS	16 YEARS OR MORE
	100%	18%	13%	28%	42%

A strong listing presentation needs to address concerns every seller has.

- How long it will take to sell their home
- How much their home will sell for
- How you are going to achieve their goals
- What will it cost them

By addressing these concerns and others the sellers may have, a seller counseling session will build the home seller's confidence in hiring you to be their agent.

The counseling session should also manage expectations for the seller, so they know what's going to happen and what you do to assist them in the sale of what is very probably the largest financial asset they will ever have.

Home sellers also want to know why they should trust in your competence to sell their home. According to the National Association of REALTORS®, the top deciding factor sellers use in choosing their agent is the agent's reputation. The session should build and affirm the agent's reputation in the seller's mind.

### Learn What's Important to Them

Ask open-ended questions

- What are your goals?
  - Why are you selling?
  - What upgrades have you made?
  - What are your favorite features?
  - Where will you be moving to?
- Can you help them buy or refer them?

### An effective seller counseling session should be carefully planned to:

- Build rapport and establish their goals and expectations
- Educate the home seller on the home selling process.
- Show the benefits and advantages of hiring you
- Articulate your expertise and what you do to achieve their goals
- Discuss the home's market value and pricing strategy.
- Explain the marketing strategy for promoting their home
- Proactively answer questions the seller might have.

## Your Value Proposition

We must take the time to ensure that our prospective clients understand what we do – how we do it - and why it's important to them.

We must add the value – the why!

- Not always clear to client why it's important
- People do business with you because they have needs
- What you do must satisfy a need

And in real estate – they sometimes don't even understand WHY they need it

Every time you tell someone WHAT you do – think of them asking “SO WHAT?” - “What does that mean to me?”

## Marketing Plan Overview

### Get to know your listing:

- Identify the unique selling features of the house, such as the lifestyle, location, history, amenities, upgrades, etc.
- Research the neighborhood and the market conditions, such as the median sales price, days on market, inventory, and buyer demand.

### Choose your marketing strategies:

- Strategically place your home online
- Your home will be on (have a page that shows all the websites)
- Extra professional pictures online (share bad photos vs. your quality)
- Virtual tour online (show them the one you made)
- Staging (if necessary – explain the stats on homes staged vs. not)
- Create a professional brochure/flyer (show them the one you created)
- Send post cards to neighbors notifying them your property is for sale (example)
- Notify agents in my office, my region and across the globe about the property
- Hold open house(s) (describe your strategy... even create a flyer to illustrate)
- Personally invite your neighbors to the open house/broker preview
- Prospecting daily for (x) hours to find a buyer for your home
- Aggressive follow-up with prospective buyers (explain your training/ designations)
- Hold a broker open house
- Advertise (give examples)
- Weekly check-in calls to “stay on the pulse”
- Review pricing weekly and notify you immediately of market changes

### Create a marketing calendar

- Plan out when and how often you will execute each marketing strategy.
- Use a calendar tool or a spreadsheet to schedule your tasks and deadlines.

- Track your progress and adjust your plan as needed.
- Re-evaluate marketing plan at 3-4 week mark

### Measure your marketing performance:

- Define what success looks like for your marketing plan and how you will measure it.
- Choose key performance indicators (KPIs) that align with your objectives
  - number of leads generated
  - number of showings scheduled
  - number of offers received, etc.
- Use tools or methods to track and analyze your KPIs on a regular basis.
- Report results and insights to your client - be able to explain what not meeting your KPI's means.

### Create a listing book or features package or listing flyers

You can also put all of the property information in a listing book or features package to share with potential homebuyers. Include beautiful photos, disclosures, and copies of receipts of any recent upgrades. Leave them in a central location for homebuyers to take home from showings, and at open houses. I would especially recommend doing this for unique properties or luxury homes. You can also include website links about the neighborhood, financing options – anything else that is special and unique about the property.

You could also put everything in a bound book, in sheet protectors with a QR code on the cover to allow buyers to download it.

### Keep seller informed of changes in the market

- Put your sellers into the prospecting program with their own home as the search.
- Each time a new listing comes on that is competition for their property they will get notice.
- Update your CMA at least every 15 days
- Use the Hotsheet



## What We Do

Assist in proper pricing

Constantly analyze the market

Market your property

Negotiate on your behalf

Follow-through to closing

## How We Do It

We will do a thorough CMA. We are aware of what has sold, what the competition is and how your home fits in with all of them.

Utilize MLS analytical data. Trained on how to analyze the data we will keep you updated if the market changes while your home is for sale – will put you in MLS as if you were buying your own home.

I may not be the one who sells your home – but I am the reason your home sells. Trained in helping my sellers get the most money, the quickest sale with the least amount of inconvenience – our marketing plan is part of that.

My job is to help you analyze offers when they come in to determine what is – or is not – in your best interest and whether you should accept, reject or counter.

I meet the appraiser. Assist in home inspection issues and negotiations. Coordinate activities with attorneys, title company and all parties.

## Benefit to Client

The Value – The WHY

You do not want to leave money on the table by pricing too low nor do you want to price your home so high that it becomes the one that helps sell other well-priced homes.

You want the market chasing you – not you chasing the market. Well priced properties sell for more and sell faster and we have to react to the market. The market doesn't lie – but it does change its mind!

We need to expose your property in every way possible to the right buyers to ensure showings. Your goals cannot be met if we do not have showings – but showings to unqualified buyers are not the answer.

We don't want to leave anything on the table. Working with a trained negotiating expert assures you will get your needs met.

Offer acceptance is only the beginning. Getting to the closing with all the players moving in the right direction is much like a well-run football team. It's the quarterback's job to get the ball in the endzone and I will be your quarterback.

## Sellers Pledge of Performance

### Our Pledge . . .

To work diligently on your behalf to sell your home for the best possible price – in the shortest possible time – with the least amount of inconvenience.

### We Will . . .

- Prepare a reliable comparable market analysis utilizing the most recent market data to help you establish a realistic, competitive listing price based on current factual market activity
- Implement a customized marketing and advertising program designed to achieve maximum exposure and get as many buyers as possible into your home until it is sold
- Develop recommendations for repairs and or improvements that will enhance your home's marketability, maximize its appeal to buyers and insure that it competes favorably with other homes on the market.
- Place a distinctive yard sign on your property including a unique website for buyer to get more info
- Submit your property to the Multiple Listing Service and select Internet sites to expose your home to the largest possible number of buyers
- Hold open houses for the public and the real estate community for additional exposure to buyers and their agents
- Promote your property to our company sales force so they are familiar with its advantages
- Provide seven day a week service to ensure that all buyer leads are handled promptly
- Review and explain all documents to you
- Constantly update you to changes in the market and their effect on the sale and re-evaluate our marketing strategy every 15 days (if needed) to accommodate adjustments in the market and shifts in activity
- Prepare a feature/fact sheet detailing the many features and benefits of your home for distribution to prospective buyers
- Follow up with all agents who show your property and notify them of any pertinent changes that could affect their buyer's interest
- Eliminate unnecessary inconvenience to you by evaluating and qualifying all prospective buyers to the extent possible to make sure they are capable of buying your home
- Ensure that you have received copies of all pertinent documents and have complied with disclosure laws and ordinances
- Assist you in evaluating all offers to ensure we meet your goals
- Employ our expert negotiating skills to help you achieve the best possible price, terms and conditions
- Provide a detailed net sheet reflecting your estimated expenses and proceeds
- Monitor and oversee the transaction to a successful conclusion including, but not limited to:
  - ensuring that the buyers loan application and approval is on track
  - meeting the appraiser at the property
  - making sure all contingencies are met within the time limits provided in the contract
  - coordinate all aspects of the sale to ensure a smooth transaction
- Receive compensation only when we have a successfully closed transaction.

Agent Signature \_\_\_\_\_ Date \_\_\_\_\_

## Seller Compensation Conversation

Because of the antitrust and the Department of Justice lawsuits, we are now aware that the way we may have been discussing compensation with our sellers needs to change.

As listing agents, we should never say things like:

- ◀ *“the commission we charge is X and we pay out Y to the co-op brokers”*
- ◀ *“if we don’t pay out at least Y, no one will show your listing”*

There are two sides to our total compensation – each side has a different set of responsibilities that contribute to the amount being charged and received.

In most marketplaces and in most price ranges, the buyers do not have the extra cash at the closing to pay their brokerage compensation.

The bottom line ends up being the same – compensation is paid from the agreed upon price the buyer is willing to pay and the seller is willing to accept. How we do that is what is changing.

We will explore the options you and your sellers have regarding how you will handle the buy-side compensation. How you will handle the compensation depends on:

- Your brokerage company policy
- The market: buyers’ market, sellers’ market or balanced market
- The level of adoption and understanding by the buyer agents in your area

### Option #1 – Seller offers compensation to buy-side brokerage

The compensation our brokerage charges to put into place everything we need to do to get you the most money, the quickest sale with the least amount of inconvenience and get to the closing table is X%.

In our marketplace, most of the buyers do not have extra money after they’ve paid their down payment and closing costs to pay their brokerage out of pocket. Most buyers want to include the buyer brokerage side of the compensation in the offer they make you. In other words, put it into the price they pay and pay it in their mortgage.

The other issue right now is they cannot add it into their mortgage, the lenders won’t let them, but they can include it in the amount they offer you and have you pay it.



So, let’s talk about what we’re going to offer to the buyer brokerage.

In our marketplace the buyer brokerage compensation varies greatly. Our offer cannot possibly cover each and every one of the formats that may be out there. That said, we want to try to offer what a buyer *may* be responsible to pay their brokerage so they understand they will not be paying it if they want to purchase your property, and they do not have to negotiate compensation with you at the same time they are negotiating other issues of the purchase.”

“What were you thinking?”







If they want to pay nothing – or very little

That is certainly your decision, but it could affect your sale. If the buyers owe their brokerage and we are not including it – they will have a few options. They can:

- . . . choose not to see your property and focus on those that are covering their compensation
- . . . pay their brokerage the compensation, but as we talked about, most of them don't have the extra money to pay it
- . . . ask you to pay it in the offer they bring you regardless of whether or not you are offering it

The prices of the sold properties vary, and in many cases it is because the sellers did – or did not – pay the compensation. The properties here (show them the actual comps) sold without buy-side compensation paid by sellers – these sellers did pay it – and their sales price reflects that.

Not offering buyer brokerage compensation does not necessarily give you extra money in your pocket – that money has always been set aside for the brokerage who brings in the buyer.

- Prepare the seller for buyer's options depending on sellers' choice.
- If the amount of compensation the seller is offering to co-op brokerages is not sufficient to cover what the buyer owes their brokerage, the buyers can use the sales contract to ask the sellers to pay the difference. You should prepare your seller for this possibility at the time of listing.

Lender **will not allow** adding it

- Buyers purchase property for \$100,000
- Buyers have \$10,000 down payment
- Wants to mortgage \$93,000 to pay their brokerage \$3,000

Lender **will allow** including it

- Buyers purchase property for \$103,000
- Put down \$10,000 down payment
- Buyer mortgages \$93,000 - buyer-brokerage compensation is paid by seller

## Option #2 – Seller is prepared to pay buy-side brokerage (not offering proactively)



There is no longer any offer of compensation in the MLS, but that does not mean that the buyers will be paying their brokerage out of their pocket. Most buyers do not have the extra funds after they have paid their down payment and closing costs to pay their brokerage themselves. What we will see will be the buyers putting into the purchase/sales contract the amount of compensation they will be asking you to pay since, beside the fact that most buyers do not have it, that is the way it has been done for years – it incorporates the buyers' fees into their mortgage.

Buyer agent compensation will vary from agent to agent, and company to company. You do not have to, in advance of an offer from the buyer, advertise what you are willing to pay in buyer agent compensation or concessions, knowing that every buyer's financial situation is different, and what they agreed to pay their buyer's agent might be different as well. If you offer a specific amount, we are telling a buyer what you are willing to give up to make a deal come together in advance of an offer.



The best approach may be for you to be prepared to pay the buy-side compensation and if I am contacted by the buyer agent prior to showing and they ask about the compensation, I can simply tell them: "Seller is willing to entertain any and all requests, please put it in your offer".

That way, we let the buyer make the first move and you can then use your response and strategy to put the transaction together. It's a negotiation... let them make the first move!

For example, if you were offering compensation of X% and the buyer agent has Y% in their buyer brokerage agreement (presuming Y is 1% less than X) and we advertise we are offering X, the buyer agent cannot ask for or keep anything more than what is in their buyer rep agreement – however, we have now told the buyer you are willing to sell your property for 1% less – that gives them negotiating room and a strategy we might not want to be giving away.

What if the buyer asks for more than what you planned? - you always have the ability to counter to the buyer at the price you need to make the transaction work for you.

### **A quick word on offering bonuses when the property is not selling**

- Are you saying that the buyer agents will now show because you are offering more compensation?
- Totally what the DOJ and the class-action lawsuits are claiming we do – and it is a violation.
- Let's not add to the problem with more ammunition
- Seller should offer 'bonus' to buyers
  - Pay closing costs
  - Prepay HOA at closing
  - Do 2-1 interest rate buydown

### **Buyers Buying Without Representation**

- There is concern that buyers will try to save the compensation by buying with the listing agent.
- If they do – what is their relationship with that listing agent and what services will they be giving up
- And – where's the guarantee they are buying it for less?!?

You need to discuss this with your seller at the time of taking the listing. Refusing to show your listing when a buyer wants to see it and they DO NOT WANT TO HIRE A BUYER BROKERAGE could be a breach of your fiduciary or statutory duty to your seller client.

The sellers hired you to sell their home – and if the buyer does not want representation, you are the only one who can do it – and it's not dual agency – and you have nothing in writing to get you paid – and the buyer doesn't want to pay you.

This is one of the unintended consequences of the new-normal for states, like Louisiana, that made laws to protect the consumer by having us default to agency level representation – no subagency. When we show other brokerages listings we cannot do No-Agency or Ministerial Acts.

No one thinks that a buyer should be purchasing the largest single investment of their lives without representation – but there's not much choice – unless the seller will agree to allow you to not show it – but why should they?

**It might sound something like this:**



I can certainly show you my listing, here is the Notice of No Agency form that I legally have to give you. Please understand that I do not work for you – I work for the seller and everything I do and say will be to the benefit of them. If you are OK with that, I'll need you to sign this form acknowledging that and caution you to not tell me anything that you do not want me to disclose to the seller.

In your conversation with the seller, you will want to cover your compensation if this happens. Since you do not represent the buyer, you will not be getting paid a buy-side compensation. This could depend on how your listing agreement reads, but to be totally transparent to the seller, or if the seller chooses Option #2 from above, or Option 3 from the sample language below you might want to add something like what is in the Unrepresented Buyer paragraph below.

**Sample of Listing/Marketing Agreement Language for Buy-Side Compensation**

**Unrepresented Buyer.** If Buyer is not represented by a Buyer's Broker, then Listing Brokerage assumes additional liability and paperwork responsibilities when showing and selling your property. Listing Brokerage will not represent the Buyer but will facilitate the completion of necessary forms and contracts. In this situation, the Listing Brokerage Compensation shall be \_\_\_\_\_.

**Compensation to Buyer's Brokerage:** The buyer's brokerage compensation required under this section will be paid at closing. The compensation agreed upon herein will not be offered or disclosed on a multiple listing service.

Seller \_\_\_\_does \_\_\_\_does not authorize Listing Brokerage to offer or disclose the compensation in the marketing of the property.

(choose one)

1. An offer of compensation will be made by Seller through Listing Brokerage Firm in the amount of \_\_\_\_\_ to any brokerage representing a buyer.
2. An offer of compensation will be made by Seller in the amount of \_\_\_\_\_ to any brokerage representing a buyer.
3. Seller will negotiate buyer's brokerage firm compensation with buyer through the purchase contract.

A note on the brokerage to brokerage compensation format.

- This format is what the DOJ is still having issues with and has been phased out by many brokerages.
- The DOJ has no problem with the seller paying it to the buyer brokerage – they have issues with it coming through the listing brokerage and the listing brokerage offering it.
- There will be no brokerage-to-brokerage compensation agreement issued
- Buyers are wanting to put it into the sales contract no matter how it is being offered – that is the only way they are sure their obligation for compensation has been satisfied

**NOTICE OF NO AGENCY RELATIONSHIP**  
To Be Used When Buyer Requests No-Agency Representation

Name of Licensee: \_\_\_\_\_

Name of Sponsoring Brokerage Company: \_\_\_\_\_

Property Address: \_\_\_\_\_

Thank you for giving Licensee the opportunity to show you their listing.

Licensee's Sponsoring Broker has previously entered into an agreement with the Seller to provide real estate brokerage services through Licensee who acts as that client's designated agent. As a result, Licensee will not be acting as your agent.

You understand the licensee will not be acting as your agent and acknowledge the following:

	<b>No Agency</b>	<b>Buyer Agent Only</b>	<b>Dual Agency</b>
Assist buyer to develop favorable offer terms	No	Yes	No
Educate buyer on market conditions	No	Yes	Yes
Keep buyer's information confidential	No	Yes	Yes
Do CMA for buyer	No	Yes	Yes
Do CMA and advise on price	No	Yes	No
Tell buyer seller's bottom line price	No	Yes *	No
Advise buyer on home inspection issues	No	Yes	Limited
Disclose to buyer the seller's motive	No	Yes *	No
Advise seller how much to counter	Yes	N/A	No
Tell seller how high buyer is willing to go	Yes	No	No
Disclose to seller the buyer's motivation	Yes	No	No

\*If agent is aware

THIS NOTICE OF NO AGENCY IS BEING PROVIDED AS REQUIRED BY STATE LAW.

\_\_\_\_\_  
Licensee's Signature Date \_\_\_\_\_

\_\_\_\_\_  
Print Customer's Name/Names

\_\_\_\_\_  
Customer Signature Date \_\_\_\_\_

\_\_\_\_\_  
Customer Signature Date \_\_\_\_\_

## Top 3 Buy-Side Concerns

1. Buyers don't want to sign the agreement prior to viewing property.
2. I feel like I'm bragging and putting my fees ahead of my buyers needs when I talk about my value proposition.
3. How will we get paid? How will we know what the listing office – or the seller – is offering?

### #1: Buyers Don't Want to Sign an Agreement Before Looking at Property

#### Attitude Influences Behavior

If you believe that buyers won't sign a buyer rep agreement, this belief can inadvertently influence your behavior and create a self-fulfilling prophecy.

#### Lack of Confidence:

- Hesitant Presentation: Presenting the agreement with hesitation or lack of conviction can make buyers doubt its importance or benefits.
- Negative Body Language: Non-verbal cues such as avoiding eye contact, fidgeting, or a lack of enthusiasm can convey uncertainty and decrease buyer confidence.

#### Why Would They Hesitate?

- Lack of understanding
  - Don't know what's in it
  - Unaware of benefits it provides
  - May misunderstand terms and obligations
- Commitment Concerns
  - Fear of committing to one agent
  - Uncertain that you can meet their needs
- Trust Issues
  - Crucial issue
  - Build rapport if they need it
- Fear of Costs
  - Worry it could lead to additional costs
  - Don't understand how fees are paid
- Negative Past Experiences
- Perceived Lack of Value
  - Think they can do it themselves
  - Don't know what we do
- Market Conditions
  - Will the agent act fast enough in a Seller's market?
- Advice from Others
- Not Ready Yet

#### Mindset Shifts – Skill Development – Strategic Action

##### Mindset Shift

##### Believe in Your Value

- Understand and believe in the value you provide to buyers.
- Have confidence in your skills and the benefits of the agreement will come across in your interactions.

##### Focus on the Positive

- Reflect on past successes and positive experiences with clients who have signed agreements.
- Use these as motivation.

##### Skill Development

##### Peer Support & Mentorship

- Connect with successful peers or mentors who have a high rate of getting buyers to sign agreements.
- Learn from their strategies and experiences.

##### Strategic Action

- Practice your dialog and objection handling with colleagues.
- Role-playing can help build confidence and improve your approach.

## #2: I feel like I'm just bragging when I talk about my value proposition.

### Let's start with – It's Not About You – It's About Them!

#### Feature Selling

- When you "sell a feature," you describe some element of your offering, in the hope that the buyers will be suitably impressed.
- A feature describes some characteristic of a product or service.
- Features are relatively neutral, both in their content and in their effect on the buyer.  
Example: "We see all the houses in the MLS!"
- Feature selling is generally ineffective, because most buyers usually can't figure out why a particular service is meaningful to them.

#### Benefit Selling

- When you "sell a benefit," you are still essentially describing service—but you tie it to some way that it improves the customer's situation. Example: *"By my monitoring the hotsheet every morning I will keep an eye on new listings that come on the market in the MLS before they ever hit most websites."*
- While "selling benefits" is more effective than "selling features," it isn't always clear to the customer why that benefit is important in the larger context of the customer's business.
- While the customer may know, for instance, that you finding the listings every day is a generally good thing to do, it won't make a lot of difference to them unless you give examples of buyers who have lost houses because they procrastinated or had a previous agent who didn't proactively monitor the market.
- People buy because they have needs. If you can relate the service you provide specifically to those needs, then there is a high probability of success. Statements, which show how the buyer's needs can be met by product features, and advantages, are the benefits.

#### Value Selling

- When "selling value," you *start* with the goal that the buyer would like to achieve—then tie that value to a specific benefit generated by a particular feature. Example: *"Finding the properties early, getting in to see them and if you want it – get the offer in as quickly as possible shows the sellers you are serious and in many cases, especially if your offer is tempting enough – the seller may not even wait for more."*
- In other words, the "value" that you're selling is not the price of your services, but the *financial impact of your services compared against the purchase cost* and in some cases having no purchase without those services.
- This is incredibly important to understand, because it's the key to selling.
- If the "value" you're selling is unique to your offering and large enough to make it a priority, you will win the business.

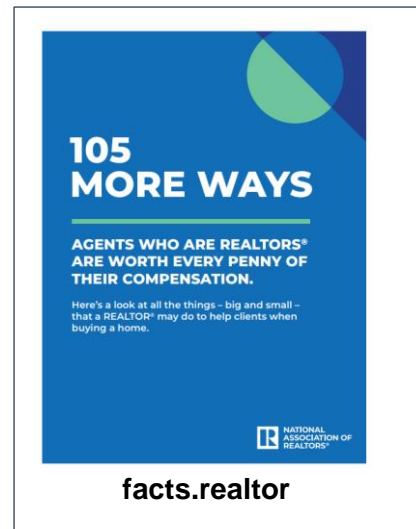
Most clients – especially buyers - don't understand who works for whom, how things work, how people are paid or even the difference between a client and a customer. when they do, most buyers have no problem committing to formally hiring a buyer agent.

## Contents of Buyer Counseling Session

1. What buyer needs and wants
2. Buyer qualification: financial and motivation
3. What you do to find the property
4. How you assist them in getting the best price and terms
5. What it takes to get to closing
6. How you get paid for all this

## Benefits of Signing Buyer Rep Agreement

- Defines client status
- Clear expectations
- Dedicated service
- Professional advice
- Negotiation and advocacy
- Legal protection
- Compensation clarity
- Trust and transparency



## Your Value Proposition

- What agents in general do
- What you personally do
- What your company brings
- Why are you unique?
- Why should they choose you?
- What will you do to help them get . .
  - . . the right property at the best price and terms
  - . . with the least amount of inconvenience
  - . . and get to the closing table

### Creating Your Unique Value Proposition

- Tailored to your clients and your market
- Gives you competitive advantage
- Your market distinction – expressed as services you offer to buyers

## What Does ChatGPT Say About Our Value?

- Market Expertise
  - Insights into local market conditions, recent sales, pricing trends, helping buyers make informed decisions
- Experience
  - Contract and forms expertise
  - Past successes that worked for others
- Negotiation Skills
  - Negotiate best possible price and terms for buyers
  - Handle counteroffers effectively



- Client Services
  - Valuation expertise
  - Guidance throughout entire process
- Networking
  - Access to listings in MLS
  - Networking with other agents
  - Recommend other professionals
- Ethical Standards
  - Provide expertise, support and representation while adhering to the Code of Ethics

### Talking Points for Buyer Counseling

- Our session today won't take long - probably just \*20 minutes\* or so, but it is very important. We'll be going over what is important to you in your new home, answer your questions about buying, get to know each other a bit and determine if I am the right agent for you.
- My job is to find you the right home, at the right price and terms and get your transaction to the closing table. Let's start with what you are looking for.
- *Use the Buyer Qualification Worksheet*



- You mentioned you were looking at approximately \$300 to \$350,000. Have you talked with a lender to determine your buying power?
- Let's do that now then. My "preferred lender" will be happy to do a preapproval for you so we can narrow down our search and be sure we are not looking in a price range that is more than you want to commit to.

*Have them talk with a lender*

- Let's get the legal stuff out of the way first. I work for you. I am your agent and as such I put your interests ahead of everyone else's, my own as well as any sellers whose homes you may be interested in. The only exception would be if I was a dual agent and we discuss that if it comes up.
- Obviously, purchasing a home is a legally complex procedure and my job is to help you navigate through all of it. As I mentioned, my job is to help you find the right property – at the right price – negotiate the best terms for you and get your transaction to the closing table.
- Let's look at an overview of the process and the expenses you will encounter and how I can help you accomplish your goals.

*Do Overview of Process – Expenses – What–How–Why - Pledge of Performance*



I have also prepared a sample of our sales contract for you as well as a sample home inspection report to prepare you for what we will be using during the purchase process. I have highlighted the paragraphs in the contract that you should look over before we get ready to write your offer so you can ask any questions and let me help you fully understand what will be happening. I've highlighted the parts of the inspection report to indicate what may be things to ask for and what are considered maintenance and do not fall under the inspection paragraph. As soon as you have given me written authorization to represent you, I will give you your copies and go over them with you.

*Show them the sample you have prepared*



Everything we do depends on whether it is a buyer or sellers' market. Currently we are in a sellers' market in our area. Let me share with you some information from our MLS that shows us what is currently happening in \*Blissville\*.

*Use your MLS analytics tool*

## Explain the Buying Process

The Buying Process has many different steps. It is not simply a matter of finding a house, writing an offer on it, taking money to closing and moving in. There are many important steps that must be followed to ensure we have a successful transaction. These are the major steps (there are plenty more!). It is my job to orchestrate the successful execution of each of these steps.

- Getting pre-approved for your mortgage
- Determining your wants and needs
- The Search begins!
- Reanalyzing your wants and needs
- The Search continues
- Proactive search for new listings
- Determining your offer price – doing a price analysis
- Writing an offer that has the highest odds of being accepted
- Negotiating for the best price and terms
- Coordinating the home inspection
- Resolution of any home inspection issues
- Coordinating survey, termite, well, septic and other issues
- Resolving appraisal issues – if any
- Coordinating any issues to get to a successful closing!

### Give buyer a sample copy of the sales contract

- Go over appropriate paragraphs
- Price – earnest money
- Financing
- Home inspection
- Attorney modification

### Copy of a home inspection report

- Obtain copy from prior buyer
- Redact name and address
- Permission from inspector
- Match items found with what requests your contract allows for
- Prepares your buyer for the realities so they do not over-react to the report

## List of Possible Expenses

- Earnest money / Deposit
- Origination Fee – lender
- Inspections
- Insurance
- Title company



## What We Do

Find suitable property

Show property

Analyze the market

Write the offer

Negotiate on your behalf

Follow-through to closing

## How We Do It

Contact sellers who are not ready yet. Other offices. Previous clients. Agents in our office have sellers. Private office listings.

Point out features. Remind you of what you wanted. Help you compare.

Utilize MLS (InfoSparks) data. Trained on how to analyze the data. Will do CMA.

Go through the contract to determine how to structure it to your benefit.

Trained in negotiating best price, terms and conditions for my buyers.

Monitor all due-diligence dates. Work with home inspector and assist in home inspection issues. Work with other agent and appraiser if needed. Coordinate activities with attorneys, title company and all parties.

## Benefit to Client

The Value – The WHY

Not all the properties you see on the internet are available and not all the available properties are on the internet.

Sellers 'stage' their homes for a reason. We need to look at things that don't change – how difficult to change others.

You want to buy a home – not just make an offer. Buyers or sellers' market? Help you get the property at the best price and terms for the market.

We need to be the 'chosen' one! A poorly written contract can be totally rejected. Must be sure it meets your needs. Changing it during attorney review can cause you to lose the house.

We don't want to leave anything on the table. Working with a trained negotiating expert assures you will get your needs met.

Offer acceptance is only the beginning. Getting to the closing with all the players moving in the right direction is much like a well-run football team. It's the quarterback's job to get the ball in the endzone and I will be your quarterback.

## Buyers Pledge of Performance

### **Because I am committed to preparing you to be an educated buyer, I will:**

- ... give you the most vital information on available homes
- ... keep you aware of changes in the real estate market
- ... arrange a tour of areas, schools and key points of interest
- ... provide neighborhood information on municipal services, schools, churches, etc.
- ... check applicable zoning and building restrictions
- ... disclose all known facts about properties I show you
- ... collect pertinent data on values, taxes, utility costs, etc.
- ... point out strengths and weaknesses of all properties you choose to view
- ... explain forms, contracts, escrow and settlement procedures
- ... discuss loan qualification and processing

### **Because I am committed to helping you save time, I will:**

- ... provide ready access to all MLS listed properties
- ... assist you as requested on all unlisted properties
- ... help you select for viewing only those homes that fit your needs
- ... show you homes only in the price range most suited to your finances
- ... provide you a list of qualified attorneys, home inspectors or other service providers
- ... arrange for necessary property inspections

### **Because I am committed to helping you find the best value, I will:**

- ... prepare studies of property values in chosen areas
- ... perform a market analysis on chosen properties
- ... discuss financing alternatives
- ... see that you get a complete estimate of all costs involved
- ... advise on offers on properties
- ... write and present your purchase agreement to the seller
- ... negotiate on your behalf

### **Because I am committed to you – my buyer – I will do all of this – plus:**

- ... keep your personal information confidential at all times
- ... stay in touch with you from the day you start your search until the day you move in
- ... coordinate all aspects of the sale and closing
- ... receive compensation only when we have a successfully closed transaction

Agent Signature \_\_\_\_\_

### #3: How Will We Get Paid? How Will we Know What Compensation is Being Offered?

#### The Buyer Representation Agreement

#### Exclusive or Non-Exclusive and Other Options

Neither the NAR Settlement nor Louisiana License Law require an exclusive agreement – just an agreement. The decision about which you are going to use is up to your brokerage company and you.

There is no requirement for a specific length of the agreement again, unless your company has a requirement.

For those who are ‘convinced’ that because either you think or one buyer has said that they won’t sign it, with your Managing Broker’s permission, there are some alternatives – we’re not saying they are good ones – just alternatives. That said, be very careful of doing anything that gives the perception of unequal treatment. If you are going to use Exclusive Agreements – then use them – if the buyer refuses to sign it then you are done! If you choose to have options for the buyers, apply those options the same for everyone.

Comparison of NAR and State Law Requirements for Written Agreements with Homebuyers	
NAR Requirements for MLS Participants	State Law Requirements for MLS Participants and Louisiana Real Estate Licensees
Specific and conspicuous disclosure of the amount or rate of compensation from any source the MLS Participant will receive or how this amount will be determined	Amount of buyer broker compensation or how that amount will be calculated, and description of services broker will provide the buyer
Amount or rate must be “objectively ascertainable and not open-ended”	MLS Participants must include, but state law does not require
Statement that the MLS Participant cannot receive compensation from any source over the amount or rate in the agreement	MLS Participants must include, but state law does not require
Conspicuous statement that broker fees and commissions are not set by law and are fully negotiable	MLS Participants must include, but state law does not require

This information is summary in nature and not a complete description of these requirements. See [www.nar.realtor/the-facts/nar-settlement-faq](http://www.nar.realtor/the-facts/nar-settlement-faq) and Act No. 690 of the 2024 Regular Legislative Session for details.

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Example: buyer calls – wants to see house – you explain you want to meet before showing to have a conversation about what they are looking for and get them pre-approved so they know their buying power and they refuse – and you are still wanting to meet this total stranger who may or may not be able to buy what you are about to disrupt the sellers’ life to show – so you meet them.


You cannot show them this house and be in compliance with the settlement and the license law without getting SOMETHING signed. You might want to take the one-day with a zero route – but now that’s your new normal and you would need to do that with everyone – or have a darn good reason why you are not treating all of your clients equally!

What are some options?

- A one-day (or whatever!) agreement
- Put ‘zero’ in the compensation
- Allow buyer to cancel whenever they want to
- Use non-exclusive

One last caution – don’t rush things. We spend one to two hours with a seller doing our seller counseling session before we ever ask them to sign a listing agreement – and they were expecting to sign one.

It’s going to take a counseling session, time to educate the buyers on what we do, before they’re ready to sign a buyer rep agreement – and that can’t be done on the front steps of the property or even in just a 10 or 15 minute meeting.



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FORMS

INITIAL LICENSE APPLICATIONS

LICENSE MAINTENANCE FORMS

MANDATORY FORMS

**ADDITIONAL REAL ESTATE FORMS**

COMPLAINTS AND INVESTIGATIONS FORMS

SCHOOLS, VENDORS, AND INSTRUCTORS FORMS

Additional Real Estate Forms

### ADDITIONAL REAL ESTATE FORMS

DISCLAIMER: The forms enumerated below are provided only as a courtesy and are not required by the Commission. Further, the Commission is prohibited, by law, from providing legal advice, and these forms are not intended as legal counsel.

**National Association of Realtors (NAR) Practice Changes** – Louisiana REALTORS Association has created optional, sample Buyer Agreement forms for real estate agents' consideration in response to National Association of Realtors (NAR) practice changes. The forms are accessible on the Louisiana REALTORS website via the link below. Please note that LREC does not require real estate licensees to use these specific forms. They are being made available only as an additional information resource. However, Act 480 (2024 Regular Session, Louisiana Legislature) requires a Buyer Agreement to be executed between a broker and a buyer in certain circumstances, effective August 19, 2024. Any additional inquiries regarding these optional, sample forms should be directed to Louisiana REALTORS and/or your own private legal counsel.

Click here to access Louisiana REALTORS' Basic, Short, and Long Buyer Sample Agreement forms via their online library.

Sample Property Management Agreement

New Construction Addendum  
For use with the Residential Agreement to Buy or Sell

Inspection Response Addendum  
For use with the Residential Agreement to Buy or Sell

**Information and links to LRA site can be found on LREC's site:**

[LREC – Louisiana Real Estate Commission](https://lrec.gov)

<https://lrec.gov>

## Comparison of Buyer Rep Agreements Available on Louisiana REALTORS® Site

	Basic	Short	Long
Location of property	Entire state	Entire state	List Parish(es)
Exclusivity	Simple	Similar to Basic	More detailed
Broker Duties	Simple	Slightly more	More detailed
Agency	Simple	More detailed	More detailed
Designated Agent	Simple	Similar to Basic	Addresses substitutes; Ministerial Acts
Duties of Buyer	No	No	Yes
Broker Compensation	3 options	Same as Basic	More options; retainer
Compensation Earned		Added assignment	Added assignment
Term of Agreement	Fillable	Same as Basic	Extension emphasized
Termination	By either party	Same as Basic	Same as Basic
Definitions			Added Definitions
Dual Agency			Addresses disclosure
Other Service Providers			Limits broker's liability for referred professionals
Acknowledgments			Clarified what Broker will/ will not do
Limitation of Liability			Limits liability for 3 <sup>rd</sup> party acts
Miscellaneous		Electronic signatures; Entities	Notice provisions; non-waiver; severability attorney fees; electronic communication; fair housing

We will look at the 'long' Buyer Representation Agreement, on Page 41. If you understand that one it will be easy to transition to either of the other two.

## The Buy-Side Compensation Conversation

- Establish your compensation at time of agreement
- You and buyer decide – not seller and listing agent
- What is your value to your buyers?
- Buyers have choices – always have option of asking seller to pay
- Must show all properties that fit buyers needs
- Cannot keep – collect – receive more compensation than what is in your agreement

If, during the term of this contract or the protection period, Buyer enters into a contract to acquire real estate and such contract results in a closed transaction, Buyer agrees to pay Brokerage firm a Brokerage Fee of \_\_\_\_\_. Should the Buyer request it, prior to showing any property, the Agent will make every reasonable effort to determine the compensation being offered by the seller or Listing Brokerage and communicate that to the buyer as soon as practical.

The compensation our brokerage receives for representing you throughout your entire transaction is for all the services I have outlined. My fee for representation is \_\_\_\_\_% or \$\_\_\_\_\_.



You are in total control of how our compensation is paid and you will not have to pay it directly unless you choose to - and you have options.

- You can choose not to see the property and focus on those that are covering the compensation
- You can pay the compensation at the closing.
- You can ask the seller to pay it in the offer you make - regardless of whether they are offering it or not.

If they question your value or say they can find houses themselves . . .

The 90 hours spent getting a license is not what prepares me to represent you. I have spent over \*100\* hours learning about buyer representation and years becoming a market expert to assist you in the largest single investment you will probably make in your life and one that shapes your family for years to come.



Although the Internet is a tool for you – and me for that matter – to use – real estate is a human relationship that cannot be managed through algorithms, formulas and apps.

What I bring to you is not just the hours – and they are numerous – that I put in to finding you the right property, at the best price and terms and making sure that we get to the closing table – it is the years of experience and the constant effort that I put in to stay on top of an ever-changing marketplace

## The Buyer Has Choices

### Option #1 - The Hard Way

- Buyer agent calls listing agent prior to every showing
- Listing agent discloses sellers' offer of compensation
- There is a high probability that the seller has not set a fee they are offering – the listing agent will tell you the seller is prepared to pay buyer brokerage and your buyer should include it in the offer.
- Buyer agent informs buyer
- Buyer uses sales contract to ask seller to pay the compensation.

## Option #2 - The Smart Way

- Buyer agrees to compensation in representation agreement
- Buyer agent educates buyer on how compensation can be handled
- Buyer – and agent don't care what seller is offering
- Buyer agent shows all properties the buyer wants to see
- No need to contact listing agent prior to showing
- Buyers are in total control of what they see and do
- Buyer uses sales contract to ask seller to pay compensation

The buyer agent can handle the compensation either way – one may be harder than the other – on both the listing and buyer agent.

- Listing Agent – do you really want all the calls?
- Buyer Agent – do you really want to wait for the listing agent to call you back?
- Why are we insisting we need to find out how much is being offered prior to showing?
- Why are so many listing brokerages focusing on how they're going to get compensation communicated to the selling broker?

Because that's the way we've always done it

Let go of the past – move forward – this is all going to be OK

Just move forward – buyer uses contract to ask seller to pay it



The compensation paid to the buyer brokerage has historically been paid by the seller at the closing – out of the proceeds they have available based on how much the buyer is paying for the property. The compensation, then, has always been paid by the buyer – it's just a bit more transparent now.

We have a couple ways we can proceed.

I could call each listing broker prior to showing you the property and ask whether the seller is offering compensation and how much. This would be time consuming and unfortunately would depend on how quickly the other agents return our requests if you insist on knowing what the seller is offering.

You could choose to look at all properties that fit your needs regardless of whether – or how much – the seller is paying. You have the ability to use the 'Seller Agreement to Compensate Buyer Brokerage' addendum (or paragraph in sales contract) to ask the seller to pay the Brokerage Fee at the closing. This would be the easiest and fastest way to accommodate your schedule and facilitate the showings and make sure you don't miss seeing a property that may be 'the one'!

When you think about it – it really doesn't make any difference to us what they are offering – you have the ability to negotiate with the seller to pay what you agree to regardless of what they are offering.

**Buyer says they only want to see properties where the seller is compensating the buyer brokerage at the level that is in the Buyer Rep agreement**



I will certainly do whatever you want me to, but I must say that this may not be the best plan.

There is no reason why you should possibly miss out on what could be the best property for you because of a hasty decision on the part of the seller – or even worse – a listing agent who did not know how to properly market their sellers' property.

You always have the right to ask the seller to pay it, whether they are offering anything or not and I am much more comfortable making available to you all properties that meet your needs and having you decide whether you want to see them – not me deciding for you.

*Remember: We cannot refuse to show – nor make property unavailable to our buyer clients – because of the offer – or lack of an offer of compensation.*

*It is recommended that you get something in writing – an email will suffice – if the buyer chooses to not look at a property because of the offer of compensation.*

**Think About It – What difference Does It Make What They Are Offering?**

- You have a buyer rep agreement – a contract – with the buyer who has committed to your compensation
- They will be asking the seller to pay it – they know what they are responsible for paying.
- You can only receive what's in your buyer rep agreement regardless of what they are offering.

**Think About It – Do You Really Want to Know?**

- There is no issue with the listing brokerage offering more than what is in the buyer rep agreement if we don't even have the conversation
- Why do we need to know?
- As long as the seller or listing brokerage covers what the buyer has agreed to – we're done!
- What the listing brokerage does with the difference is none of the buyer agent's business

**After you have done your counseling, explained compensation and walked the buyers through the buyer representation agreement, don't forget to 'ask for the order'!**

After our discussion today, and based on what I've committed to do, do you feel comfortable and confident that I am the agent to represent you?

Great, All I'll need is your written authorization to represent you and I can get to work for you.

**If they disagree and do not want to sign:**

OK. I can respect that. It means we will not be able to work together, but I wish you all the best. If, at some point, you change your mind, then please feel free to come back – we would love the opportunity to work with you.

In the event they do not want to sign, leave the door open for them to return. The next agent they talk to is going to ask them to sign an agreement as well, causing them to rethink the process and potentially come back to you.



## **Offer and Negotiating Phase**

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### **Listing Side**

- The listing agent should have done a net sheet for the seller at the time of taking the listing.
- The amount of compensation is included in the calculations on the net sheet
  - If the seller has agreed to an amount – that is what you use
  - If the seller has agreed to negotiate it in the sales contract – use a variety of possibilities to show what their 'bottom-line' would be with different requests
- When the listing agent did the CMA and priced the property there should have been a clear understanding of probable sales price if paying compensation – probable sales price if not
- Both license law and the Code require that we present all offers
- If the 'bottom-line' doesn't work for the seller
  - They should counter a price at which it does work
  - This is preferable to them saying they 'won't pay XX in compensation'

### **Buy Side**

- It is important that the buyer and buyer agent have talked with the loan officer, and they have verified the buyer's ability to pay the compensation or if it will become part of the contract
- Be sure it is clear – by attachment or inclusion – that buyer is requesting seller pay compensation
- If compensation is coming from listing brokerage to buyer brokerage there needs to be a Brokerage to Brokerage Compensation Agreement signed by the managing broker of the listing office
- Your buyer may still want to put it in the contract to ensure their obligation to pay you is being covered by the seller – whether the seller pays it to the listing brokerage or directly to the buyer brokerage or buyer at closing is a separate issue between seller and listing brokerage.
- The compensation the buyer asks the seller to pay is whatever is in your buyer rep agreement
- If seller counters by saying they won't pay the compensation – or all of what the buyer is asking for - the buyer can calculate what that would be and counter back to the seller.
- There is no time where the listing agent needs to see – nor should see – your buyer rep agreement. That said, the lender will need to see it and in some cases the title company may want it.



## Appraisal-Valuation Issues

Real Estate News > Sales and Marketing

### Appraisals, Data, and the Proposed NAR Settlement

July 19, 2024

Being a Broker, Data Privacy & Security, Appraisal & Valuation, MLS & Online Listings

By: Cathy Harper



Data is the main ingredient in the appraisal process. Clear, concise and verifiable data helps to ensure an accurate appraisal report.

Where do appraisers get such data? They depend on the multiple listing service. In states with non-disclosure laws—i.e., where sales prices aren't included in the public record—an MLS is typically the only source of the data. In disclosure states, an MLS is still generally the most accurate source.

So, what happens when the data is not there or is inaccurate?

A big topic of discussion among appraisers today is the missing link between agents and appraisers that will result from the proposed settlement between the National Association of REALTORS® and class-action plaintiffs representing sellers in a residential transaction.

Under the practice changes following the settlement, MLS participants are prohibited from using the MLS to communicate offers of compensation for buyers' representatives. This practice change, which goes into effect Aug. 17, has raised questions about how appraisers take compensation into account when conducting valuations. **To measure the market reaction of compensation paid, or not, appraisers need to know the details of the transactions we are analyzing. This includes all the sales we consider as possible comparables.**

**The compensation paid on the subject property will be readily available to the appraiser through analysis of the sales contract. What will be unknown is the amount of compensation paid to brokers for sales that the appraiser is considering as comparables. This will require us to ask brokers and agents what compensation was paid or will be paid at closing.**

**It's imperative that brokers, agents and appraisers keep an open line of communication.**

**When an appraisal is underway, time is of the essence. I can't stress this enough: Please save our numbers in your phones and respond to our questions as quickly as possible. This will be a learning curve for all of us. To serve our clients as well as we can, cooperation is a must.**

**There's a lot of discussion in our business about whether agents and appraisers are allowed to communicate during the appraisal process. We are! Under Fannie Mae's [Appraisal Independence](#) requirements, though we must refrain from discussing the value of the property, it is explicitly permissible for agents and brokers to communicate with appraisers about many aspects of the process.**

I would be remiss if I did not take this opportunity to discuss the importance of *all* the data needed to accurately analyze comparable properties. Remember, while appraisers generally see the subject property, they usually are not physically seeing the properties used for comparables. To measure market reaction, they need to be made aware of all amenities and the details of each sale.

Usually, the most valuable information an appraiser must verify is what's included in the building's square footage being reported. When inputting MLS data:

- Note if there is an exterior building on the property, such as a casita, pool house, converted garage, or accessory dwelling unit. (To be considered as an ADU, the space generally must include a kitchen; be aware of your own state and local laws that apply to ADUs.) These areas typically may not be counted as gross living area by appraisers, but they may be included as separate areas that contribute to value. Therefore, don't add all these spaces together as one dwelling.
- Note how many rooms are included in each area and include photos with labels for these specific areas.
- Is there an enclosed patio included? Please add a labeled photo of it.
- Is there a laundry room? Where is it? Please add a labeled photo of it.
- Please add photos of the sides of the house, and the rear of the house.

Photos of all these amenities help us to determine the factors contributing to differences in sales prices. And these are just a few questions that appraisers often have. Don't hesitate to include additional information that you think may be useful in closing remarks on an MLS. (However, under the NAR settlement, you cannot use the closing remarks, or any MLS fields, to report offers of broker compensation.) Additional data is helpful for both the subject and comparable properties. This has often taken the form of "appraiser packets."

While the use of MLS data by appraisers may seem like a secondary concern, it's not. Our mortgage lending system depends on accurate valuations. The ability to analyze data on closed sales remains crucial to the process and will affect future home sales.

Finally, third parties often review appraisal reports and may challenge appraisers regarding the data included in reports. Sometimes investors will reject a sale because of that. The greater our clarity about the data and its accuracy, the better we'll be at explaining all contributory factors in the initial report to the lender—and the smoother the process will go.

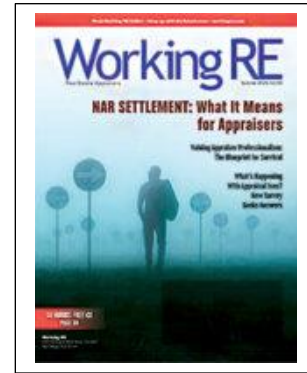
Let's do this together!

[NAR Settlement: What It Means for Appraisers \(workingre.com\)](https://www.workingre.com/nar-settlement-what-it-means-for-appraisers)

**NAR Settlement: What It Means for Appraisers**

by Isaac Peck, Publisher

Note: We have removed the portion of the article that explained the settlement, as well as the impact on the real estate industry and have included only the section on how the appraisers should approach the issue.



Many appraisers and key stakeholders in the valuation space have begun discussing this question—most recently at the 2024 Association of Appraiser Regulatory Officials (AARO) Spring Conference in Nashville.

Danny Wiley, senior director of single-family valuation at Freddie Mac and Lyle Radke, senior director of collateral policy at Fannie Mae, gave a joint presentation at AARO in which the audience questioned how appraisers (and their regulators!) should view the issue.

The consensus from Wiley and Radke is that nobody really knows how the market(s) are going to respond, but the government sponsored entities (GSEs) will monitor the situation closely.

**The central question arising for appraisers is: At what point, if any, does an appraiser need to adjust for seller-paid commissions?**

One point highlighted in the discussions at AARO is that, to date, appraisers have generally ignored the real estate brokers' commissions that sellers have paid because these commissions have been silently baked into appraisers' opinions of value for decades.

Appraisers need look only at how the Uniform Residential Appraisal Report (Form 1004) defines market value, specifically the section on adjustment for concessions: "Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions."

In other words, if there are costs that are normally paid by sellers in "virtually all sales transactions," the appraiser doesn't need to account for them and no adjustment is necessary.

However, if a market shifts to the point that sellers stop paying for the buyer broker's commission in "virtually all sales transactions," then an appraiser in that market may need to start paying attention, make note of those costs and adjust to the comparables accordingly.

Again, it will depend on how the local market responds. Will 5 or 10 percent of sellers refuse to pay the buyer broker's commission? Will there be some markets in which 20, 30 or 40 percent of sellers ultimately decline to offer a buyer broker commission over the next three to five years?

There are a number of scenarios for how a residential transaction might play out:

- Seller offers to pay commission for buyer broker.
- Seller offers no commission and buyer pays their own broker.
- Seller offers no commission and buyer submits an offer contingent on seller paying the buyer broker's commission.
- Seller offers no commission and buyer submits an offer contingent on a cash concession toward closing costs (think \$10,000 or \$15,000).

There are myriad other scenarios that buyers and sellers might creatively invent for how to make a transaction work. For starters, a buyer desperate to make a deal work might increase their offer price but then ask for the same amount to be paid as commission to their broker or returned to them as a concession at closing.

### Investigative Appraising

In markets that have no uniformity with respect to how sellers compensate buyer brokers, appraisers will need to do some investigating to determine if an adjustment is warranted.

Ryan Lundquist, a Sacramento, California, appraiser and author of the [sacramentoappraisalblog.com](https://sacramentoappraisalblog.com), acknowledges that because commissions have been baked into the market for so long, it's not really something appraisers have had to consider. **“With a buyer’s agent commission now potentially being handled like a concession, this is something new that we need to analyze. The gist is we’re going to have to see if there is any price difference between homes with and without the buyer’s agent commission covered,”** says Lundquist. “This isn’t just something appraisers will have to ask either. Real estate agents are going to dig into this, and savvy buyers, too. If you were a buyer looking at comps, wouldn’t you ask, ‘Did the seller pay for the buyer’s commission on this one?’ That seems like a relevant question when considering what to offer.”

Craig Capilla, a partner at Franklin, Greenswag, Channon & Capilla LLC and an attorney on the frontlines of defending appraisers, says the impetus will fall on appraisers to take additional steps in data verification. “Especially since the commission paid or offered to the buyer broker is not going to be in the MLS, appraisers who are operating in markets where compensation is not universal will need to work harder to get an accurate view of what’s what,” says Capilla. **“Appraisers will need to pick up the phone, call the agent and try to get answers around how compensation was structured on each comparable used in the appraisal.”**

For sellers and listing agents offering commission to the buyer broker, Capilla says it might be easier to suss out than appraisers think. “The expected settlement terms would mean the only place the listing agent can’t put the commission is the MLS, so check their social media and websites. If they’re offering buyer side commission, they’re probably going to shout that information from the rooftops. Appraisers can screenshot that information or take notes on any phone conversations they have and save it to their workfile,” suggests Capilla.

Of course, taking this approach is ultimately going to be more work for appraisers. “If the local market isn’t handling commission in a uniform way, the appraiser will have an obligation to try to obtain more information and make heads or tails of it,” notes Capilla. “That’s going to require extra effort on the appraiser’s part.”

### Concessions Already a Problem

Setting aside this new commissions issue, some appraisers are already in hot water for failing to adjust for concessions. In its December 2023 Appraiser Newsletter, Fannie Mae explains that it recently analyzed appraisal data from Q4 2021 to Q3 2023. In that sample, appraisers reported seller concessions for 7.6 million comparables, but didn’t make adjustments on 58 percent of the comparables. Addressing this failure, Fannie writes: “Of course, this tends to inflate the appraisal results and undermines the credibility of the appraiser.”

Fannie Mae reminds appraisers that “market theory suggests that sellers would typically aim to recover the expense of the seller concession by increasing the price, so something close to a dollar-for-dollar adjustment would be the predicted outcome of the appraiser’s analysis in most cases.”

This has been a popular discussion item for GSE representatives, including Radke, at numerous appraiser conferences over the last 12 months. An example Radke offers in his presentation is the following: “If I am in my car driving down the road and a man is standing on the street corner with a sign that says, ‘Please give me \$10,000,’ no one is going to do that. No one is going to give away \$10,000 for nothing. Yet, we see these kinds

of concessions be completely ignored by appraisers all the time. They will say, ‘Oh this is typical for my market, so I don’t have to adjust for it.’”

At the AARO conference, Radke and Wiley suggested that many appraisers simply don’t want to spend the time to calculate the adjustment for concessions. However, the GSEs are signaling that this will be a key focus for them going forward, implying that appraisers who refuse to adapt to their standards will likely be on the receiving end of warning letters, board complaints and loan buyback demands.

At the moment, however, the GSEs (along with the Federal Housing Authority) have indicated they will not treat the seller’s payment of the buyer broker’s commission as a concession or an interested party contribution (IPC). While seller concessions have typically been limited to between 2 and 9 percent of the property value, the GSEs directly addressed the uncertainty around this issue created by the NAR settlement in writing, noting that because “buyer agent fees have historically been fees customarily paid by the property seller or property seller’s real estate agent,” they will be excluded from the financing concession limits.

However, Fannie leaves the door open to reassess the situation later, writing: “It is Fannie Mae’s standard practice to continuously evaluate its requirements to determine whether updates are appropriate based on changes to the market and industry. Fannie Mae will continue to monitor and assess the impact of the proposed NAR settlement and other real estate agent commission lawsuits to determine if any updates to its requirements are necessary.”

Another thing to note is that the GSEs will ultimately be able to track how uniformly commissions are paid by the seller in a given market because they have access to the final closing statements of each transaction.



# Industry Letter

TO: Freddie Mac Sellers

April 15, 2024

## SUBJECT: COMMISSIONS PAID TO REAL ESTATE AGENTS

There have been recent inquiries concerning a proposed settlement agreement, subject to court approval, entered into by the National Association of Realtors® (NAR) in the *Burnett et al* and *Moehrl et al* cases. This Industry Letter addresses the current treatment of property seller-paid buyer agent fees under our interested party contribution requirements.

### Interested party contributions

In Guide Section 5501.5, property sellers are permitted to make financing concessions toward the Borrower's Closing Costs in maximum amounts between 2% and 9% of the property value. Fees or costs customarily paid by the property seller according to local convention are not subject to these financing concessions limits. Buyer agent fees have historically been fees customarily paid by the property seller or property seller's real estate agent, and, as such, they are currently excluded from these financing concession limits. If these fees continue to be customarily paid by the property seller according to local convention, they will not be subject to financing concessions limits.

It is our standard practice to continuously evaluate our requirements to determine whether updates are appropriate based on changes to the market and industry. We will continue to monitor and assess the impact of the proposed NAR settlement and other real estate agent commission lawsuits to determine if any updates to our requirements are necessary.

### CONCLUSION

If you have any questions about the content of this Industry Letter, please contact your Freddie Mac representative or call the Customer Support Contact Center at 800-FREDDIE.

Sincerely,

Kevin Kauffman  
Senior Vice President, Single-Family Seller Engagement



## Selling Notice

April 15, 2024

### Real Estate Commissions and Interested Party Contributions

We are aware of the proposed settlement agreement, subject to court approval, announced by the National Association of REALTORS® (NAR) in the *Burnett et al* and *Moehrl et al* cases. While there are no immediate changes to our *Selling Guide* policies, we are clarifying the current treatment of seller-paid real estate agent fees under our interested party contributions (IPCs) policy.

*Selling Guide* B3-4.1-02, Interested Party Contributions (IPCs) permits interested parties (including property sellers) to make contributions to the borrower's closing costs subject to maximum limits ranging between 2% and 9% of the property value. Typical fees and/or closing costs paid by a seller in accordance with local custom, known as common and customary fees or costs, are not subject to the IPC limits described in *Selling Guide* B3-4.1-03, Types of Interested Party Contributions (IPCs). If a seller or seller's real estate agent continues to pay the buyer's real estate agent commission in accordance with local common and customary practices, these amounts are not required to be counted towards the IPC limits for the transaction.

As part of our standard risk management practices, we continuously review and evaluate our *Selling Guide* policies. We will continue to monitor the various real estate agent commission lawsuits and settlements and evaluate the potential implications to the mortgage industry and our policies.

Veterans Benefits Administration  
Department of Veterans Affairs  
Washington, DC 20420

Circular 26-24-14  
June 11, 2024

### Temporary Local Variance for Certain Buyer-Broker Charges

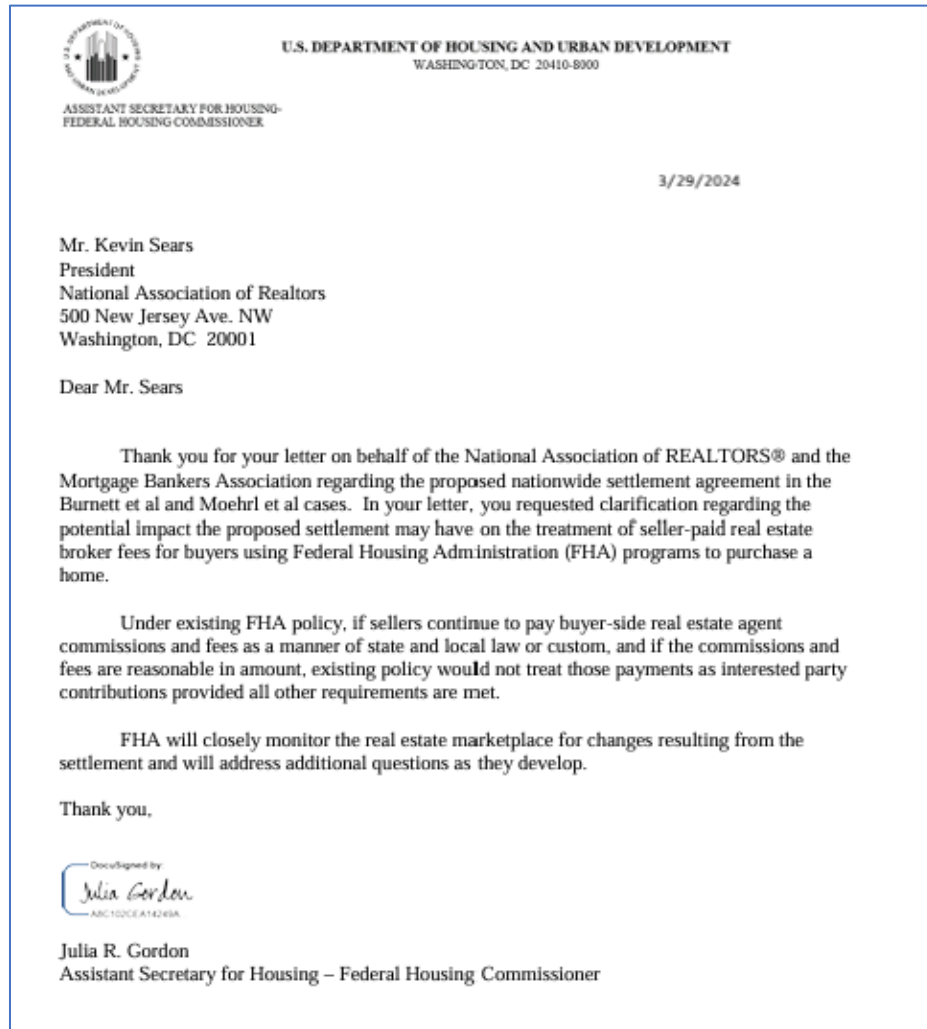
1. **Purpose.** The Department of Veterans Affairs (VA) is publishing this Circular to announce a temporary local variance for charges related to real estate broker or agent (buyer-broker) compensation.

2. **Background.** VA regulates fees and charges that may be made against or paid by a Veteran who is using the VA-guaranteed home loan benefit.<sup>1</sup> While VA's regulation specifies that, generally, a Veteran cannot pay for real estate brokerage charges, the Under Secretary for Benefits (USB) may authorize, in advance, charges that are appropriate for Veterans to pay as proper local variances.<sup>2</sup> Through this Circular, VA is announcing a temporary local variance that will allow Veterans to pay for certain buyer-broker charges. The USB has determined this temporary variance is appropriate to ensure Veterans remain competitive buyers in the rapidly shifting real estate brokerage market. VA will develop a more permanent policy, through a new notice-and-comment rulemaking, as the real estate brokerage market restabilizes and new practices take hold.

3. **Temporary Local Variance for Buyer-Broker Charges.** VA is authorizing a temporary local variance that allows Veterans to pay reasonable and customary amounts for any buyer-broker charges (including commissions and any other broker-related fees), subject to the following:

a. The home the Veteran is purchasing is an area where—

- (1) listing brokers are prohibited from setting buyer-broker compensation through multiple listing postings; or
- (2) buyer-broker compensation cannot be established by or flow through the listing broker.



### Why does it matter?

If our compensation was a part of the IPCs – the buyer would not be able to ask for both – compensation for their brokerage and seller to pay closing costs – if it totaled more than the allowable IPC on that type of loan.

- Most MLSs require disclosure of ‘seller concessions’ at time of closing out the listing.
- Compensation is NOT part of those concessions – the lenders consider it part of the ‘normal and customary’ fees of a transaction
- Concessions are deducted from the value of the comp when used by the appraisers.

### Both Fannie Mae and Freddie Mac place limits on IPCs:

Occupancy Type	LTV / CLTV Ratio	Maximum IPC
Principal (Primary) Residence or Second Home	>90%	3%
	75.01% - 90%	6%
	<75%	9%
Investment Property	All CLTV Ratios	2%





facts.realtor

## HOMEBUYERS: HERE'S WHAT THE NAR SETTLEMENT MEANS FOR YOU

Buying a home is one of the largest financial transactions most people will ever undertake. Agents who are REALTORS® are a trusted source of advice and stand ready to help you navigate your homebuying journey and make the choices that work best for you. NAR's recent settlement has led to several changes that benefit homebuyers, and we wanted to clearly lay them out for you.

### **Here is what the settlement means for homebuyers:**

- You will sign a written agreement with your agent before touring a home.
- Before signing this agreement, you should ensure it reflects the terms you have negotiated with your agent and that you understand exactly what services and value will be provided, and for how much.
- The buyer agreement must include four components concerning compensation:
  - a. A specific and conspicuous disclosure of the amount or rate of compensation the real estate agent will receive or how this amount will be determined.
  - b. Compensation that is objective (e.g., \$0, X flat fee, X percent, X hourly rate)—and not open-ended (e.g., cannot be “buyer broker compensation shall be whatever the amount the seller is offering to the buyer”).
  - c. A term that prohibits the agent from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and,
  - d. A conspicuous statement that broker fees and commissions are fully negotiable and not set by law.
- Written agreements apply to both in-person and live virtual home tours.
- You do not need a written agreement if you are just speaking to an agent at an open house or asking them about their services.
- The seller may agree to offer compensation to your agent. This practice is permitted but the offer cannot be shared on a Multiple Listing Service (MLS)—MLSs are local marketplaces used by both buyer brokers and listing brokers to share information about properties for sale.

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- You can still accept concessions from the seller, such as offers to pay your closing costs.

**Here is what the settlement doesn't change:**

- Agents who are REALTORS® are here to help you navigate the homebuying process and are ethically obligated to work in your best interest.
- Compensation for your agent remains fully negotiable, and if your agent is a REALTOR®, they must abide by the REALTOR® Code of Ethics and have clear and transparent discussions with you about compensation. When finding an agent to work with, ask questions about compensation and understand what services you are receiving.
- You have choices. Work with your agent to understand the full range of these choices when buying a home, which will help you make the best possible decision for your needs.

**More details about these changes and what they mean can be found at:**

[facts.realtor](https://facts.realtor)



facts.realtor

## HOME SELLERS: HERE'S WHAT THE NAR SETTLEMENT MEANS FOR YOU

As a home seller, you have a wide range of choices when it comes to listing your home. Agents who are REALTORS® are a trusted source of advice and stand ready to help you navigate this complex process and make the choices that work best for you. NAR's recent settlement has led to several changes related to broker commissions that benefit sellers, and we wanted to clearly lay them out for you.

### Here is what the settlement means for home sellers:

- You still have the choice of offering compensation to buyer brokers. You may consider doing this as a way of marketing your home or making your listing more attractive to buyers.
- Your agent must conspicuously disclose to you and obtain your approval for any payment or offer of payment that a listing broker will make to another broker acting for buyers.
- This disclosure must be made to you in writing in advance of any payment or agreement to pay another broker acting for buyers, and must specify the amount or rate of such payment.
- If you choose to approve an offer of compensation, there are changes to how this can happen.
- You as the seller can still make an offer compensation, but your agent cannot include it on a Multiple Listing Service (MLS)—MLSs are local marketplaces used by both buyer brokers and listing brokers to share information about properties for sale.
- Your agent can advertise your listing via off-MLS platforms such as social media, flyers and websites.
- You as the seller can still offer buyer concessions on an MLS (for example, concessions for buyer closing costs).

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**Here is what the settlement doesn't change:**

- Agents who are REALTORS® are here to help you navigate the process of selling your home and are ethically obligated to work in your best interest.
- Compensation for your agent remains fully negotiable, and if your agent is a REALTOR®, they must abide by the REALTOR® Code of Ethics and have clear and transparent discussions with you about compensation. When finding an agent to work with, ask questions about compensation and discuss what you would like to offer buyers.
- You have choices. Work with your agent to understand the full range of these choices when selling your home, which will help you make the best possible decision for your needs.

**More details about these changes and what they mean can be found at:**

**[facts.realtor](https://facts.realtor)**

## BUYER QUALIFICATION WORKSHEET

Name \_\_\_\_\_

Current Address \_\_\_\_\_

Phone Numbers \_\_\_\_\_

E-Mail Addresses \_\_\_\_\_

Family size \_\_\_\_\_

Pets \_\_\_\_\_

Current Living Situation:

☐ Own                      ☐ Rent                      ☐ Must sell to purchase

Desired possession date \_\_\_\_\_

Ideal Price \_\_\_\_\_

Ideal Monthly Payment \_\_\_\_\_

☐ Preapproved    With whom \_\_\_\_\_

Ideal Location \_\_\_\_\_

Special requirements    ☐ day care facilities    ☐ sports/recreation programs

☐ cultural activities    ☐ school requirements    ☐ other

Notes: \_\_\_\_\_

# of Bedrooms \_\_\_\_\_ Minimum \_\_\_\_\_

# of Bathrooms \_\_\_\_\_ Minimum \_\_\_\_\_

Garage \_\_\_\_\_

Lot Size \_\_\_\_\_

Age of home \_\_\_\_\_

Style \_\_\_\_\_

☐ Eat-in kitchen

☐ Separate dining room

☐ Fireplace

☐ Family room

☐ Finished basement

☐ \_\_\_\_\_

☐ Fenced yard

☐ Deck/patio

☐ Pool

☐ Waterfront

☐ Home office

☐ \_\_\_\_\_

☐ Boat parking

☐ Camper

☐ Bus/truck

☐ Additional vehicles

☐ \_\_\_\_\_

☐ \_\_\_\_\_

How long have you been looking for a home? \_\_\_\_\_

How have you been doing that? \_\_\_\_\_

Have any agents shown you homes? \_\_\_\_\_

What was your relationship with them? \_\_\_\_\_

What did you sign with them? \_\_\_\_\_

Did you see anything you liked? \_\_\_\_\_

What kept you from buying it? \_\_\_\_\_

Describe your ideal home \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If we weren't able to find everything in the price range and location you want, what would you consider compromising on? \_\_\_\_\_

Are there some items that are 'deal breakers' – things you won't compromise on? \_\_\_\_\_

Tell me a little about your lifestyle, how you entertain \_\_\_\_\_

Is there anything else I need to know - any other requirements or needs? \_\_\_\_\_

**BUYER REPRESENTATION AGREEMENT FOR RESIDENTIAL PROPERTY**

(This is a legally binding contract; if not understood, seek competent advice before signing.)

This Buyer Representation Agreement ("Agreement") is by and between: \_\_\_\_\_, the "Buyer", and \_\_\_\_\_, the "Broker".

**1. RIGHT TO REPRESENT.** Buyer grants the Broker the **exclusive** right to represent Buyer in connection with the Purchase of Property (defined below) in the following parish (or parishes): \_\_\_\_\_.  
Property shall be any Property located in Louisiana if no parish is specified above.

**2. EXCLUSIVE AGREEMENT.** This is an "Exclusive Agreement." Broker will be the only broker who will represent the Buyer in the Purchase of Property. Buyer confirms that Buyer has not entered into any other agreement with another broker, agent or real estate professional for the same or similar purposes as those set forth in this Agreement. Buyer acknowledges that entering into more than one such agreement could result in Buyer being liable to pay multiple brokers. Buyer shall inform other brokers, agents, salespersons, and sellers with whom Buyer may have contact that Broker exclusively represents Buyer in connection with the Purchase of the Property and other purposes set forth herein, and shall direct all such persons to communicate with Broker. Buyer acknowledges that this Agreement does not limit or restrict Broker's ability to provide Brokerage Services to others.

**3. AGENCY.** All parties acknowledge and agree that this Agreement creates an agency relationship between the Buyer and Broker pursuant to applicable Louisiana law (La. R.S. 9:3891, et. seq.), whereby the Broker owes the Buyer certain duties pursuant to such applicable laws and this Agreement. Information about this relationship is in the agency disclosure form or informational pamphlet published by the Louisiana Real Estate Commission and by law Broker is required to provide this form or pamphlet to the Buyer for the Buyer's signature.

**4. DESIGNATED AGENT.**

- A. **Designated Agent.** Broker designates, and Buyer accepts, \_\_\_\_\_ as "Designated Agent" as that term and duties are defined by and set forth in La. R.S. 9:3891, et. seq.
- B. **Substitute.** Broker may appoint a substitute Designated Agent for Buyer as Broker determines necessary and if so, Buyer will be notified of this change in writing within a reasonable timeframe.
- C. **Ministerial Acts.** A staff member, employee, or independent contractor of Broker may perform ministerial acts to support or assist the Buyer or Designated Agent on the Buyer's behalf and the performance of such acts does not make any such person the designated agent of the Buyer.

**5. DEFINITIONS.** For purposes of this Agreement, the following terms shall include and be assigned the following meaning:

- A. **"Broker":** shall mean both the above-named Sponsoring Broker and Designated Agent (if any), unless the context clearly dictates otherwise.
- B. **"Brokerage Services":** means those services provided by Broker to Buyer pursuant to this Agreement.
- C. **"Buyer":** means the person, entity (or persons or entities, collectively) who sign this Agreement as a Buyer.
- D. **"Professional Service Provider":** means a person or entity that provides the Buyer with advice regarding, but not limited to, the property condition, financing, tax, title insurance, property insurance, property value, and legal matters concerning this Agreement or the matters relating to the purpose of this Agreement.



- E. **"Property"**: means residential real property consisting of one, but not more than four residential dwelling units, which are buildings or structures each of which is occupied or intended for occupancy as a single-family residence. Property may be considered residential regardless of whether it's currently utilized as, or to be utilized as, income-producing property.
- F. **"Purchase"**: Acquisition by purchase, exchange, or bond for deed, or to obtain or acquire an option to purchase.
- G. **"Purchase Agreement"**: means a written agreement by which the Buyer and a Seller Party negotiate and agree to the Purchase of Property.
- H. **"Seller Party"**: means, collectively, the transferor (or transferors) in a Property transaction and any real estate broker, licensee, or agent acting on behalf of such transferor(s).

#### 6. DUTIES OF BROKER/DESIGNATED AGENT.

- A. Broker and Designated Agent shall undertake and perform all duties required of Broker and Designated Agent pursuant to La. R.S. 9:3893 and this Agreement, including the following actions:
  - 1. Perform the terms of this Agreement and exercise reasonable skill and performance in providing Brokerage Services to the Buyer.
  - 2. Use all skills and resources to locate a Property acceptable to Buyer.
  - 3. Draft, negotiate, and complete a written offer or Purchase Agreement on behalf of Buyer.
  - 4. Negotiate the Purchase of Property on terms acceptable to Buyer.
  - 5. Promote the best interests of the Buyer by doing the following:
    - a. Seeking a transaction at a price and upon terms acceptable to Buyer.
    - b. Timely presenting all offers to and from the Buyer.
    - c. Timely accounting for all money and property received in which the Buyer has, may have, or should have had an interest.
- B. Broker and Designated Agent shall perform all other services mutually agreed upon in writing by Buyer and Broker.
- C. Broker and Designated Agent may assist the Buyer by performing "ministerial acts" as that term is defined by La. R.S. 9:3891.
- D. Buyer acknowledges and agrees that Broker shall not:
  - 1. Decide what price the Buyer should pay or any seller should accept for a Property.
  - 2. Guarantee the condition of any Property.
  - 3. Guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by any Seller Party or others.
  - 4. Have an obligation to conduct an inspection of the Property.
- E. Buyer acknowledges and agrees that Broker shall not be responsible for:
  - 1. Identifying defects on the Property.
  - 2. Inspecting public records or permits concerning the title or use of the Property.
  - 3. Identifying the location of boundary lines or other items affecting title.
  - 4. Verifying square footage, representations of others or information contained in disclosures, any Multiple Listing Service, advertisements, flyers or other promotional material.
  - 5. Providing legal or tax advice regarding any aspect of a transaction entered into by Buyer.
  - 6. Providing other advice or information that exceeds the knowledge, education, and experience required to perform real estate activities, as defined by La. R.S. 37:1431, in the State of Louisiana.

#### 7. DUTIES OF BUYER(S). In accordance with any applicable law and pursuant to this Agreement, Buyer agrees to:

- A. Work with Broker in scheduling visits of available Properties at reasonable times and attend any scheduled visits.



- B. Consider Properties selected by the Broker and negotiate in good faith to acquire any such Property that the Buyer finds acceptable.
- C. Timely comply with the reasonable requests of Broker to supply information or data necessary to complete the Purchase of a Property.
- D. Take steps to protect him/herself, including investigation, discovery, and comprehension of the legal, practical, and technical implications of the Purchase of a Property and the transactions contemplated by this Agreement, and the facts and circumstances that may be discovered by Buyer or disclosed to Buyer.
- E. Carefully and fully read any other documents requested to sign throughout the Purchase of Property and consult an attorney of the Buyer's choice to answer any questions about this Agreement or any of these documents.
- F. Seek assistance and advice from appropriate Professional Service Provider(s) selected by Buyer in connection with the due diligence and investigation of the Property and the potential Purchase, such as construction, insurance, surveys, titles, inspections, appraisals, finance, mold or hazardous substances, termites, insects, law, or any other matter of concern to Buyer.

**8. BROKER COMPENSATION.**

- A. Buyer agrees to pay "Compensation" to Broker as provided below as follows (complete all that apply):

1. Percentage of the gross purchase price of Purchased Property: \_\_\_\_\_ %
2. Flat Fee: \_\_\_\_\_ (dollars)
3. Retainer Fee: \_\_\_\_\_ (dollars) due to Broker upon execution of this Agreement, which shall be:
  - a. Refundable: \_\_\_\_\_
  - b. Non-Refundable: \_\_\_\_\_
    - i. If not marked, the Retainer Fee shall be non-refundable and shall NOT be returned to Buyer.
    - ii. If non-refundable, the Retainer Fee shall be credited against any Compensation owed to the Broker from the Buyer.
    - iii. If refundable, the following terms and conditions shall apply:
4. Other: \_\_\_\_\_

- B. Buyer acknowledges and agrees that the Compensation payable to Broker is not set by law and is fully negotiable, and that Buyer has willingly agreed to pay the Compensation set forth above to Broker, subject to the terms and conditions of this Agreement.
- C. Broker shall not receive compensation for Brokerage Services from any source that exceeds the amount or rate agreed to in this Agreement.
- D. Compensation owed to Broker shall not be reduced based on any independent efforts by Buyer to locate, identify, negotiate, or investigate Property that is Purchased by Buyer.

- E. Buyer authorizes Broker to inquire with any Seller Party to determine whether such Seller Party has authorized a payment to any broker or agent representing a buyer, such as Broker, in connection with the sale of a Property.
- F. Buyer may request that a Seller Party pay all, or a part, of the Compensation owed by Buyer to Broker.

**9. RESPONSIBILITY OF BUYER TO COMPENSATE BROKER.** Buyer agrees and acknowledges that while other sources **MAY OR MAY NOT** be available to compensate Broker, it is the Buyer's responsibility to compensate the Broker according to this Agreement. If the amount of Compensation received by the Broker from any Seller Party is less than the total Compensation owed to the Broker according to this Agreement, then the Buyer shall pay the Broker the amount of Compensation owed minus the amount received from any Seller Party.

**10. COMPENSATION EARNED AND OWED.** Buyer acknowledges and agrees that Broker has earned and is owed the Compensation set forth in this Agreement if and when any of the following occurs:

- A. Buyer Purchases Property during the term of this Agreement or any extension thereof.
- B. Buyer Purchases Property not less than \_\_\_\_\_ (number) calendar days after the termination or expiration of this Agreement or any extension thereof and Broker or Designated Agent brought the existence and availability of the Purchased Property to the Buyer's attention during the term of the Agreement or any extension thereof. If left blank, the number of calendar days shall be one hundred eighty (180).
- C. Any assignee or transferee of the Buyer's rights under any Purchase Agreement, including any amendments or substitutions thereto, Purchases the Property that is the subject of such Purchase Agreement.

**11. TERM OF AGREEMENT.**

- A. **Term.** This Agreement **BEGINS** on \_\_\_\_\_ (month), \_\_\_\_\_ (date), \_\_\_\_\_ (year) and will **END** at 11:59 p.m. on \_\_\_\_\_ (month), \_\_\_\_\_ (date), \_\_\_\_\_ (year). If left blank, the Agreement will commence on the date of the last signature of Buyer or Broker set forth below and end at 11:59 p.m. one hundred and eighty (180) calendar days thereafter.
- B. **Automatic Extension.** Notwithstanding the foregoing, if a Purchase Agreement has been signed by Buyer and a Seller during the term of this Agreement, then the term of this Agreement shall be automatically extended through the consummation of the transactions contemplated by such Purchase Agreement or the termination or expiration of such Purchase Agreement, whichever occurs first. Buyer acknowledges that the obligation to pay Compensation shall survive termination of this Agreement, as more fully set forth herein.

**12. TERMINATION.** Either party may terminate this Agreement at any time by providing five (5) calendar days advance written notice to the other party, however, Buyer's obligation to pay the Compensation shall survive termination of this Agreement but only to the extent that any Compensation is earned and owed under the terms of this Agreement.

**13. DUAL AGENCY.**

- A. Buyer acknowledges that Broker, Designated Agent, or a licensee sponsored by Broker may represent sellers of Property and that such a Property may be of interest to Buyer. Buyer authorizes the Broker to bring any such Property to the Buyer's attention.
- B. The representation of Buyer pursuant to this Agreement in connection with such a Property may result in a dual agency relationship as defined by La. R.S. 9:3891 and set forth in La. R.S. 9:3897. If a dual agency relationship exists, Broker and Designated Agent shall comply with all applicable

laws, rules and regulations related thereto, including disclosure requirements and the requirement that Buyer provide informed written consent to Broker's continued representation of Buyer.

**14. PROFESSIONAL SERVICE PROVIDERS.**

- A. Buyer is advised to seek appropriate advice from a Professional Service Provider regarding this Agreement, a Purchase Agreement as contemplated by this Agreement, and any Property that is or may be the subject of a Purchase Agreement as contemplated by this Agreement.
- B. Broker, Designated Agent, another salesperson sponsored by the Broker, or a staff member, employee, or independent contractor of the Broker (each, a "Broker Party" and collectively, the "Broker Parties") may provide the Buyer the name(s) or contact information for a Professional Service Provider(s).
- C. Providing this information to a Buyer shall not be an endorsement of the Professional Service Provider or a guarantee or warranty as to the quality, cost, or timeliness of the work of the Professional Service Provider.
- D. Buyer is advised to independently investigate all Professional Service Providers, including but not limited to those that may be identified to Buyer as set forth herein above, and consider whether the Professional Service Provider will work effectively with the Buyer.
- E. Buyer is under no obligation to utilize a Professional Service Provider identified to Buyer as set forth herein above.

**15. ACKNOWLEDGMENTS.** Broker and Buyer acknowledge and agree as follows:

- A. Neither Designated Agent nor Broker shall have any obligation to search out any Property beyond those that come to the attention of Broker or Designated Agent in the ordinary course of business.
- B. Broker or any licensee of the Broker may show a Property in which Buyer is interested to other prospective buyers.
- C. Broker is not responsible to monitor or supervise any portion of any construction or repairs to Property as such tasks fall outside the scope of "real estate activity" as defined by the Louisiana Real Estate Licensing Law.
- D. Buyer shall be responsible for complying with the duties and deadlines contained in any document or agreement entered into or executed by Buyer.
- E. Except when imposed by applicable law, there shall be no knowledge imputed between the Broker, Designated Agent, or between any other licensees of Broker regarding any Property in which Buyer develops an interest.
- F. Broker and Designated Agent are not experts with respect to construction, insurance, surveys, titles, inspections, appraisals, finance, mold or hazardous substances, termites, insects, law, or other matters and Buyer has been advised and shall seek independent expert advice relative to any of these matters, and all other matters deemed relevant by Buyer, which may include the use of Professional Service Providers (defined below).
- G. The Broker shall owe the Buyer no other duties other than those set forth in this Agreement and those required by applicable law.

**16. LIMITATION OF BROKER LIABILITY.** Buyer shall hold the Broker Parties harmless from any and all claims, causes of action, or damages arising out of or relating to any of the following:

- A. To the extent permitted by law, inaccurate information or incomplete information, or both, provided to Buyer by any Broker Party.
- B. Deposit funds or other money handled or held by anyone other than any Broker Party.
- C. Injury or damage to any Property viewed or visited pursuant to this Agreement or the loss of tangible or intangible property which occurred or is believed to have occurred in connection with viewing or visiting a Property pursuant to this Agreement.



- D. Injury to persons sustained while any Property is viewed or visited pursuant to this Agreement or injury of persons attributed to visiting or viewing a Property pursuant to this Agreement.

**17. MISCELLANEOUS AGREEMENT PROVISIONS.**

- A. This Agreement constitutes the sole and entire Agreement between the parties.
- B. If more than one person is named as Buyer, separate matching Agreements may be executed by each Buyer individually, and when so executed, the copies taken together shall be deemed to be a full and complete Agreement between the parties.
- C. This Agreement may be executed by use of electronic signatures, in accordance with the Louisiana Uniform Electronic Transaction Act. This Agreement and any supplement addendum or modification relating hereto, including any photocopy, facsimile, or electronic transmission thereof, may be executed in two or more counterparts, all of which shall constitute one and the same Agreement.
- D. All notices, requests, claims, demands, and other communications related to or required by this Agreement shall be in writing. Notices permitted or required to be given (excluding service of process) shall be deemed sufficient if delivered by (a) mail, (b) hand delivery, (c) overnight delivery, (d) facsimile, (e) email, or (f) other e-signature transmissions addressed to the respective addresses of the parties as written on the signature page of this Agreement or at such other addresses as the respective parties may designate by written notice.
- E. Failure of any party to strictly follow the terms of this Agreement does not waive the right of any party to later insist that the Agreement be strictly followed.
- F. If any provision of this Agreement or its application is held invalid or not applicable, this does not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application thereof.
- G. In any action, proceeding or arbitration between Buyer and Broker regarding the obligation to pay Compensation under this Agreement, the prevailing Buyer or Broker shall be entitled to reasonable attorney fees and costs.
- H. If the Buyer is an entity, rather than an individual, the undersigned individual signing on behalf of Buyer hereby represents and warrants that such individual is fully authorized to execute this Agreement on behalf of Buyer.

**18. ELECTRONIC COMMUNICATIONS.**

- A. All parties to this Agreement consent to the use of electronic documents, electronic document transmission, and the use of electronic signatures for this Agreement and any addendum or modification thereto, including but not limited to any notices, requests, claims, demands, or other communications about the Agreement and will treat these as originals.
- B. The Buyer authorizes the Broker and Designated Agent (if any) to electronically deliver notices and other communications to the email address provided herein.
- C. The Broker authorizes the Buyer to electronically deliver notices and other communications to the email address provided herein.

**19. FAIR HOUSING.** Buyer and Broker shall comply with all federal and state housing laws that prohibit discrimination based on protected class status.

**20. AUDIO/VIDEO RECORDING.** Buyer is advised that some home sellers use audio or video surveillance, or both, to monitor and/or record any conversation or activity occurring in a home being toured or viewed.

**21. WIRE FRAUD WARNING.** Never trust wiring instructions sent via email. Cybercriminals hack email accounts and send emails with fake wiring instructions. These emails are convincing and sophisticated.

295 Always independently confirm wiring instructions in person or via a telephone call to a trusted and verified  
 296 phone number. Never wire money without double-checking that the wiring instructions are correct.

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 298 **22. OTHER TERMS:**

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 341 [SIGNATURE PAGE FOLLOWS]  
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Louisiana REALTORS® Long Buyer Agreement Sample Form

343 This **BUYER REPRESENTATION AGENCY AGREEMENT** is made by the undersigned Broker, Designated  
 344 Agent, and Buyer effective as of the date of the last signature set forth below.

\_\_\_\_\_  
 Buyer Name

\_\_\_\_\_  
 Broker Name

\_\_\_\_\_  
 Buyer Signature

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

☐ Broker  
☐ Sponsored Licensee, acting with  
 written authority of Broker

\_\_\_\_\_  
 Telephone

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Email Address

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 Telephone

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 Email Address

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 Buyer Name

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 Buyer Signature

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 Date

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 Telephone

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 Email Address

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## Managing Broker - Office Policy Considerations

## Listing Side

- Will you create your own listing agreement?
- What training will you have to ensure your agents are complying?
- Will you have the compensation come through you as the listing brokerage?
- Will you have a minimum listing compensation agents must charge?
- No-agency/ministerial acts on agent's listings allowed?
- If seller chooses a specific offer of compensation – where will it be disclosed?

[illegible]

## Buy Side

- Which representation agreement will you use – will you create your own?
- Will you have a policy on verifying compensation prior to showing (not recommended)?

[illegible]

## **Build Your Value Proposition**

**What do you already do that you need to remember to communicate to your clients?**

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**What are you not doing that you feel you should be doing to bring value to your clients?**

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**What questions do you have for your brokerage – or what do you need from your brokerage?**

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## **Handling Objections**

**You explain everything to the prospect and they say they're not going to use a buyer agent – they heard that they should go directly to the listing agent to see each listing.**

Real estate transactions are full of land mines — the listing agent is there to represent the seller – so if you run into difficulties, it will not come down in your favor. Our goal is to prepare offers so they represent your goals, negotiate the best terms on your behalf, prepare all the necessary documents, as well as help with home inspection and appraisal issues if something goes wrong.

If you think you will get all we offer by going to the listing agent, you are mistaken. The listing agent is legally and contractually bound to the seller and must do everything in that seller's best interest – not yours!

Buying a home is the largest single investment most people make in their lives – with a lot of liability. If for some reason something goes wrong and you need to go to court, would you and the seller use the same attorney?

## **HANDLING OBJECTIONS**

**Why do I have to sign an exclusive agreement to work with just you?**

Not only do the MLS rules and license law require a written agreement, I am committed to spending a significant amount of time and expertise to represent you as a real estate professional and help you achieve your real estate dreams. I cannot make that commitment to you unless I know that we have an exclusive mutual agreement to work together. Like all professionals — attorneys, accountants — even your auto mechanic — we require a signed agreement before we can begin.

**What if - I want to work with another Realtor at the same time?**

Whether you are hiring a contractor, going to a dentist or doctor or having work done on your car – you choose the best person you can – but only one.

A buyer agreement is now required — any other buyer's agent you may want to work with is going to ask for an agreement as well.

And as I mentioned earlier – you are better off working with one agent with whom you've signed an agreement than a bunch of agents who have a lesser obligation and commitment to finding you the right home, at the right price and committing the time and energy it takes in this market to get the job done right for you"

**I really don't feel comfortable signing an agreement like this.**

I've discovered that if someone is uncertain about signing this agreement, it usually means either I haven't answered their questions to their satisfaction or there is something they haven't told me. Is there something that concerns you that I haven't covered today?

**What if I want out?**

Option #1: If at any time you are unhappy with the service I am providing, you can feel free to discuss it with my Managing Broker and they will be happy to appoint a different agent to you who can meet your needs. I will say, however, that I have never had a buyer who was so dissatisfied with my services that my manager had to step in. I think you will be more than satisfied with my services.

Option #2: If at any time you are unhappy with the service I am providing, all I ask is that you give me 10 days to correct things to your satisfaction. If, after that time you are still not satisfied, I will immediately release you from the agreement, up until we have a signed purchase agreement with a seller.

**What if I do not want a lengthy contract?**

We are happy to sign an agreement with you for a time frame that works for you, or we can do it for a specific number of properties

OR

Data shows us that in the current market, the time it is taking for most of the buyers to find the property they are looking for is longer because of the low inventory. This agreement is for the average length of time the buyers are taking. It's in both our interests to feel comfortable that we are focusing on the end goal in a way that doesn't put any pressure on either of us.