



**Senate Select Committee on Housing
Proponent Testimony
SB 245
5/22/2024**

Chair Reynolds, Vice Chair Johnson, Ranking Member Craig, and members of the Senate Select Committee on Housing, thank you for the opportunity to testify in support of SB 245. My name is Ali Whitley and I am the President of Ohio REALTORS®. I have 27 years of experience in residential sales. I teach Real Estate courses, Designations and Certifications, and serve as Real Estate Agent and Director of Education for RE/MAX Crossroads in Akron, Ohio.

I would first like to thank this committee for its work over the past year on examining ways to address Ohio's housing crisis. As you all know, housing is vitally important to every Ohioan, and you should be commended for the report you developed. We look forward to being part of the process as the state works to implement the committee's recommendations.

My testimony today will focus on the provisions of SB 245 that establishes a statewide standard for the use of written representation agreements in the real estate industry that can be found in ORC 4735.55.

Formed in 1910, Ohio REALTORS® is the state's largest professional trade association with approximately 36,000 members representing both residential and commercial practitioners. REALTORS® are licensed real estate professionals who have taken the added commitment to the industry by joining the National Association of REALTORS® (NAR) and agree to abide by NAR's Code of Ethics, which outlines the ethical standards that REALTORS® must follow when dealing with other professionals and their clients. The training REALTORS® complete on NAR's Code of Ethics is intended to protect clients, the public, and other professionals in the real estate industry. It is important to note that not all licensed real estate professionals are REALTORS® and, therefore, are not required to abide by NAR's Code of Ethics.

The policy changes related to the use of written representation agreements contained in SB 245 are vitally important to Ohio's real estate industry as they ensure every licensed real estate broker enters into written representation agreements with their clients. This will improve transparency within the homebuying process by informing the consumer of the services to be provided, as well as the commission structure. It will also protect the real estate professional from disputes over services provided and terms of compensation.

The need for this legislation stems from a recent settlement reached by NAR resolving litigation brought on behalf of home sellers related to broker commissions. As part of this settlement, the real estate industry will be changing. First, NAR agreed to create a new rule prohibiting offers of compensation on the Multiple Listing Service (MLS). Offers of compensation, where the listing broker offers compensation to the buyer broker, will need to be negotiated outside of the MLS. Second, NAR agreed to create a new rule, requiring REALTORS® working with homebuyers participating in the MLS to enter into written agreements with their buyers. The practice of entering into written agreements with clients



Alasandra Whitley, 2024 President • **Scott R. Williams**, CEO

200 E. Town St. • Columbus, OH 43215-4648

P 614.228.6675 • F 614.228.2601 • info@ohiorealtors.org • www.ohiorealtors.org



has long been encouraged as it helps consumers understand the services and value REALTORS® provide and specifies how they will be paid. These new rules will take effect on August 17th of this year.

While the settlement does require written agreements for REALTORS® representing buyers, it does not apply to all licensed real estate professionals, resulting in uncertainty over whether these agreements must be used and what they must contain.

SB 245 is an effort to provide some clarity to the changing industry practices. By establishing a statewide standard for all licensed real estate professionals, we ensure everyone is operating under the same rules and guidelines. SB 245 would require written representation agreements to be entered into for all licensed real estate brokers and their clients. It also establishes what would need to be included in these agreements, specifically the terms of compensation and whether the agreement is exclusive or nonexclusive.

As the industry enters this changing environment where homebuyers may be responsible for negotiating and paying their real estate broker directly, it is imperative that they are aware of the commission structure prior to making an offer on a property. It is important that brokers enter into these agreements, discuss with their clients the services and value they provide, and explain their commission structure before they spend countless hours working for a client.

Until the state establishes a standard for the use of written representation agreements, we can expect continued inconsistency in their usage, creating further confusion for Ohioans trying to navigate the homebuying process. We would also urge this committee to act with urgency. With the practice changes resulting from the settlement being implemented in August of this year, it is imperative that the legislature pass this policy before then to establish a framework for the use of written representation agreements as the industry adapts to these changes.

I would also like to mention that the House of Representatives passed similar legislation, HB 466, earlier this month with overwhelming support and there were no opponents during the committee process. I will highlight that HB 466 is drafted slightly differently than the language contained in SB 245. HB 466 requires licensees to enter into the agreements prior to making an offer to purchase a property, while SB 245 requires the agreements to be entered prior to providing services that require a license. Additionally, HB 466 does not apply to commercial transactions, while SB 245 does. These changes were made in HB 466 as a result of numerous discussions with our members as well as with other stakeholders, and we would urge the committee to amend SB 245 to mirror HB 466.

Thank you for the opportunity to testify today. I urge the committee's support for this important legislation and would be happy to answer any questions.

Sincerely,

Alasandra Whitley
President
Ohio REALTORS®

