

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 466

Representatives Schmidt, Brennan

Cosponsors: Representatives Hall, Pizzulli, Williams, Seitz, Johnson, Baker, Dell'Aquila, Denson, Klopfenstein, Miller, J., Click, Robb Blasdel, Abrams, Rogers, Mohamed, Upchurch, Lampton, Piccolantonio, Forhan, McNally, Stein

A BILL

To amend sections 4735.55, 4735.56, and 4735.59 of
the Revised Code to require a written agency
agreement for a licensed broker to represent a
buyer or seller in a real estate transaction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4735.55, 4735.56, and 4735.59 of
the Revised Code be amended to read as follows:

Sec. 4735.55. (A) ~~Each~~ Prior to marketing or showing a
seller's real estate, or making an offer to purchase or lease
real estate on behalf of a purchaser, a licensee shall enter
into a written agency agreement shall contain that contains all
of the following:

- (1) An expiration date;
- (2) A statement that it is illegal, pursuant to the Ohio
fair housing law, division (H) of section 4112.02 of the Revised
Code, and the federal fair housing law, 42 U.S.C.A. 3601, as
amended, to refuse to sell, transfer, assign, rent, lease,

sublease, or finance housing accommodations, refuse to negotiate 17
for the sale or rental of housing accommodations, or otherwise 18
deny or make unavailable housing accommodations because of race, 19
color, religion, sex, familial status as defined in section 20
4112.01 of the Revised Code, ancestry, military status as 21
defined in that section, disability as defined in that section, 22
or national origin or to so discriminate in advertising the sale 23
or rental of housing, in the financing of housing, or in the 24
provision of real estate brokerage services; 25

(3) A statement defining the practice known as 26
"blockbusting" and stating that it is illegal; 27

(4) A copy of the United States department of housing and 28
urban development equal housing opportunity logotype, as set 29
forth in 24 C.F.R. 109.30, as amended; 30

(5) A statement that the licensee is appointed as an agent 31
of the client, and an indication of whether the agency 32
relationship is exclusive or nonexclusive; 33

(6) The terms by which the real estate broker is to be 34
compensated. 35

(B) Each written agency agreement shall contain a place 36
for the licensee and the client to sign and date the agreement. 37

(C) A licensee shall furnish a copy of any written agency 38
agreement to a client in a timely manner after the licensee and 39
the client have signed and dated it. 40

Sec. 4735.56. (A) Each brokerage shall develop a written 41
brokerage policy on agency to be given to prospective sellers 42
and purchasers in accordance with divisions (C) and (D) of this 43
section. 44

(B) The brokerage policy on agency described in division 45
(A) of this section shall include all of the following 46
information: 47

(1) An explanation of the permissible agency relationships 48
available under section 4735.53 of the Revised Code and the 49
duties that the agent owes the agent's client; 50

(2) The brokerage's policy on representation of purchasers 51
or sellers; 52

(3) Whether at some time during the agency relationship 53
the brokerage and its licensee may act as a dual agent, and the 54
options and consequences for the client if a dual agency 55
situation arises including the right of the client to terminate 56
the agency relationship and seek representation from another 57
source; 58

(4) Whether at some time during the agency relationship, 59
another licensee affiliated with the same brokerage as the 60
licensee may become the exclusive agent for the other party in 61
the transaction and whether each licensee will represent only 62
the interests of that licensee's client; 63

(5) The brokerage's policy on cooperation with other 64
brokerages, including whether the brokerage offers compensation 65
to other brokerages or will seek compensation from other 66
brokerages; 67

(6) That a brokerage that has a purchaser as a client 68
represents the purchaser's interests even though the seller's 69
agent or the seller may compensate that purchaser's brokerage; 70

(7) That the signature of the purchaser or the seller 71
indicates acknowledgement of receipt of the brokerage policy on 72
agency. 73

(C) A licensee ~~acting as a seller's agent working directly~~ 74
with a seller in a real estate transaction shall provide the 75
seller with the brokerage policy on agency described in this 76
section ~~prior to marketing or showing the seller's real estate~~ 77
at the time the licensee and seller enter into an agency 78
agreement, as required by section 4735.55 of the Revised Code, 79
and shall obtain a signature from the seller acknowledging 80
receipt unless the seller refuses to provide a signature. If the 81
seller refuses to provide a signature, the licensee shall note 82
this on the policy. 83

(D) A licensee working directly with a purchaser in a real 84
estate transaction, whether as the purchaser's agent, the 85
seller's agent, or the seller's subagent, shall provide the 86
purchaser with the brokerage policy on agency described in this 87
section and obtain a signature from the purchaser acknowledging 88
receipt of the policy unless the purchaser refuses to provide a 89
signature. If the purchaser refuses to provide a signature, the 90
licensee shall note this on the policy. Except as provided in 91
division (E) of this section, the licensee shall provide the 92
brokerage policy on agency to a purchaser prior to the earliest 93
of the following actions of the licensee: 94

(1) Initiating a prequalification evaluation to determine 95
whether the purchaser has the financial ability to purchase or 96
lease a particular real estate property; 97

(2) Requesting specific financial information from the 98
purchaser to determine the purchaser's ability to purchase or 99
finance real estate in a particular price range; 100

(3) Showing the real estate to the purchaser other than at 101
an open house; 102

(4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;	103 104
(5) Submitting an offer to purchase or lease real estate on behalf of the purchaser;	105 106
<u>(6) Entering into an agency agreement with the purchaser under section 4735.55 of the Revised Code.</u>	107 108
(E) If the earliest event described in division (D) of this section is by telephone or electronic mail, the licensee shall disclose by that same medium the nature of the agency relationship that the licensee has with both the seller and the purchaser. The licensee shall provide the purchaser with the brokerage policy on agency described in this section at the first meeting with the purchaser following this disclosure of the agency relationship.	109 110 111 112 113 114 115 116
(F) A licensee acting as a seller's agent is not required to provide a purchaser with the brokerage policy on agency described in this section except in the case of an event described in division (D) of this section.	117 118 119 120
(G) The requirements of this section regarding provision of a brokerage policy on agency apply only in the following situations:	121 122 123
(1) The sale or lease of vacant land;	124
(2) The sale of a parcel of real estate containing one to four residential units;	125 126
(3) The leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement is for a term of more than eighteen months.	127 128 129
Sec. 4735.59. To change the party a licensee represents in	130

a real estate transaction after an agency disclosure statement 131
has been signed and dated ~~or~~, following verbal disclosure of 132
the agency relationship, or following an agency agreement under 133
section 4735.55 of the Revised Code, the licensee shall obtain 134
written consent from the party originally represented to 135
represent another party in the transaction. The licensee shall 136
promptly notify all persons who had been notified of the 137
original relationship. 138

The Ohio real estate commission may adopt rules in 139
accordance with Chapter 119. of the Revised Code to provide for 140
required disclosures when a licensee terminates an agency 141
relationship and becomes a principal in the transaction. 142

Section 2. That existing sections 4735.55, 4735.56, and 143
4735.59 of the Revised Code are hereby repealed. 144