

As Reported by the House Civil Justice Committee

135th General Assembly

Regular Session

2023-2024

Am. 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, Hillyer, Stewart

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) As used in this section:

(1) "Residential real property" has the same meaning as in
section 5302.30 of the Revised Code.

(2) "Residential premises" has the same meaning as in
section 5321.01 of the Revised Code.

(B) ~~Each~~ Prior to marketing or showing a seller's
residential real property, making an offer to purchase
residential real property on behalf of a purchaser, or making an
offer to lease a residential premises on behalf of a purchaser

for a term exceeding eighteen months, a licensee shall enter 16
into a written agency agreement ~~shall contain that contains~~ all 17
of the following: 18

(1) An expiration date; 19

(2) A statement that it is illegal, pursuant to the Ohio 20
fair housing law, division (H) of section 4112.02 of the Revised 21
Code, and the federal fair housing law, 42 U.S.C.A. 3601, as 22
amended, to refuse to sell, transfer, assign, rent, lease, 23
sublease, or finance housing accommodations, refuse to negotiate 24
for the sale or rental of housing accommodations, or otherwise 25
deny or make unavailable housing accommodations because of race, 26
color, religion, sex, familial status as defined in section 27
4112.01 of the Revised Code, ancestry, military status as 28
defined in that section, disability as defined in that section, 29
or national origin or to so discriminate in advertising the sale 30
or rental of housing, in the financing of housing, or in the 31
provision of real estate brokerage services; 32

(3) A statement defining the practice known as 33
"blockbusting" and stating that it is illegal; 34

(4) A copy of the United States department of housing and 35
urban development equal housing opportunity logotype, as set 36
forth in 24 C.F.R. 109.30, as amended; 37

(5) A statement that the licensee is appointed as an agent 38
of the client, and an indication of whether the agency 39
relationship is exclusive or nonexclusive; 40

(6) The terms by which the real estate broker is to be 41
compensated. 42

(B) Each written agency agreement shall contain a place 43
for the licensee and the client to sign and date the agreement. 44

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

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

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

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

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

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

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

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

brokerages;	74
(6) That a brokerage that has a purchaser as a client	75
represents the purchaser's interests even though the seller's	76
agent or the seller may compensate that purchaser's brokerage;	77
(7) That the signature of the purchaser or the seller	78
indicates acknowledgement of receipt of the brokerage policy on	79
agency.	80
(C) <u>A licensee acting as a seller's agent working directly</u>	81
<u>with a seller in a real estate transaction shall provide the</u>	82
seller with the brokerage policy on agency described in this	83
section prior to marketing or showing the seller's real estate	84
<u>at the time the licensee and seller enter into an agency</u>	85
<u>agreement, if required by section 4735.55 of the Revised Code</u>	86
<u>or, if an agency agreement is not required by that section,</u>	87
<u>prior to marketing or showing the seller's real estate, and</u>	88
shall obtain a signature from the seller acknowledging receipt	89
unless the seller refuses to provide a signature. If the seller	90
refuses to provide a signature, the licensee shall note this on	91
the policy.	92
(D) A licensee working directly with a purchaser in a real	93
estate transaction, whether as the purchaser's agent, the	94
seller's agent, or the seller's subagent, shall provide the	95
purchaser with the brokerage policy on agency described in this	96
section and obtain a signature from the purchaser acknowledging	97
receipt of the policy unless the purchaser refuses to provide a	98
signature. If the purchaser refuses to provide a signature, the	99
licensee shall note this on the policy. Except as provided in	100
division (E) of this section, the licensee shall provide the	101
brokerage policy on agency to a purchaser prior to the earliest	102
of the following actions of the licensee:	103

(1) Initiating a prequalification evaluation to determine whether the purchaser has the financial ability to purchase or lease a particular real estate property;	104 105 106
(2) Requesting specific financial information from the purchaser to determine the purchaser's ability to purchase or finance real estate in a particular price range;	107 108 109
(3) Showing the real estate to the purchaser other than at an open house;	110 111
(4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;	112 113
(5) Submitting an offer to purchase or lease real estate on behalf of the purchaser;	114 115
<u>(6) Entering into an agency agreement with the purchaser under section 4735.55 of the Revised Code.</u>	116 117
(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.	118 119 120 121 122 123 124 125
(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.	126 127 128 129
(G) The requirements of this section regarding provision of a brokerage policy on agency apply only in the following	130 131

situations:	132
(1) The sale or lease of vacant land;	133
(2) The sale of a parcel of real estate containing one to four residential units;	134 135
(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.	136 137 138
Sec. 4735.59. To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or , <u>following verbal disclosure of</u> the agency relationship, <u>or following an agency agreement under</u> <u>section 4735.55 of the Revised Code,</u> the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship.	139 140 141 142 143 144 145 146 147
The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction.	148 149 150 151
Section 2. That existing sections 4735.55, 4735.56, and 4735.59 of the Revised Code are hereby repealed.	152 153