

# AN ACT

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 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 for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

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

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

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

(6) The terms by which the real estate broker is to be compensated;

(7) A conspicuous statement that broker fees and commissions are not set by law, are fully negotiable, and may be paid by the seller, the buyer, the landlord, the tenant, or a third party, or by

sharing or splitting the fees and commissions between brokers.

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

~~(C)~~(D) 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;

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

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

(C) A licensee ~~acting as a seller's agent working directly with a seller in a real estate transaction~~ shall provide the seller with the brokerage policy on agency described in this section ~~prior to marketing or showing the seller's real estate at the time the licensee and seller enter into an agency agreement, if required by section 4735.55 of the Revised Code or, if an agency agreement is not required by that section, prior to marketing or showing the seller's real estate,~~ and shall obtain a signature from the seller acknowledging receipt unless the seller refuses to provide a signature. If the seller refuses to provide a signature, the licensee shall note this on the policy.

(D) A licensee working directly with a purchaser in a real estate transaction, whether as the purchaser's agent, the seller's agent, or the seller's subagent, shall provide the purchaser with the brokerage policy on agency described in this section and obtain a signature from the purchaser acknowledging receipt of the policy unless the purchaser refuses to provide a signature. If the purchaser refuses to provide a signature, the licensee shall note this on the policy. Except as

provided in division (E) of this section, the licensee shall provide the brokerage policy on agency to a purchaser prior to the earliest of the following actions of the licensee:

- (1) Initiating a prequalification evaluation to determine whether the purchaser has the financial ability to purchase or lease a particular real estate property;
- (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;
- (3) Showing the real estate to the purchaser other than at an open house;
- (4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;
- (5) Submitting an offer to purchase or lease real estate on behalf of the purchaser;
- (6) Entering into an agency agreement with the purchaser under section 4735.55 of the Revised Code.

(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.

(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.

(G) The requirements of this section regarding provision of a brokerage policy on agency apply only in the following situations:

- (1) The sale or lease of vacant land;
- (2) The sale of a parcel of real estate containing one to four residential units;
- (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.

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~~, following verbal disclosure of the agency relationship, or following an agency agreement under section 4735.55 of the Revised Code, 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.

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.

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

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. H. B. No. 466

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_