



# WRIST MLS Update

## 5-28-2024

APPENDIX B - REALTOR® MLS “OPT IN” AGREEMENT

# Agenda

- What is this agreement?
- How does this change the way the MLS operates?
- When will these changes be fully implemented?
- What other changes will happen outside of the MLS?
- Additional resources to help navigate these industry changes.

# Sitzer-Burnett class-action lawsuit

- Sitzer-Burnett is a class-action lawsuit that was filed in Missouri federal court by a group of home sellers in the state against NAR and other defendants. The plaintiffs claimed that real estate commission rates are too high, buyers' representatives are paid too much, and NAR's Code of Ethics and MLS Handbook, along with the corporate defendants' practices, lead to inflated commission rates.
- The Appendix B is a settlement agreement between the National Association of Realtors® and the plaintiffs in this case.
- Adopting the settlement agreement will protect the MLSs and brokerages from any future litigation on this matter.

# What is required of MLSs in this agreement?

Removal of offers of compensation through the MLS:

- MLSs must eliminate any requirement by the MLS that listing brokers or sellers must make offers of compensation to cooperating brokers or other buyer representatives.
- MLSs must prohibit the MLS participants, subscribers, other real estate brokers, other real estate agents, and sellers from making offers of compensation on the multiple listing service to cooperating brokers or other buyer representatives or disclosing on the multiple listing service listing broker compensation or total brokerage compensation.
- MLSs must eliminate all broker compensation fields on the MLS, and prohibit the sharing of offers of compensation to buyer brokers or other buyer representatives via any other fields on the MLS.
- MLSs agree not to create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregators' website for such purpose) for listing brokers or sellers to make offers of compensation to buyer brokers or other buyer representatives.

# Offers of compensation outside of the MLS

The agreement will not prevent offers of compensation to buyer brokers or other buyer representatives off of the multiple listing service or sellers from offering buyer concessions on an MLS (e.g., for buyer closing costs), so long as such concessions are not limited to or conditioned on the retention of or payment to a cooperating broker, buyer broker, or other buyer representative.

- Brokers may publish the offers of compensation on their own brokerage websites for their active inventory.

# Buyer Agency Agreements

MLS must require that all MLS Participants working with a buyer enter into a written agreement before the buyer tours any home with the following:

- a. to the extent that such a Participant will receive compensation from any source, the agreement must specify and conspicuously disclose the amount or rate of compensation it will receive or how this amount will be determined
- b. the amount of compensation reflected must be objectively ascertainable and may not be open-ended (e.g., “buyer broker compensation shall be whatever amount the seller is offering to the buyer”)
- c. such a Participant may not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer;

# Advertising

MLSs must prohibit Participants, subscribers, and other real estate brokers and agents accessing the multiple listing service from representing to a client or customer that their brokerage services are free or available at no cost to their clients, unless they will receive no financial compensation from any source for those services.

# Disclosure

MLSs must require MLS Participants acting for sellers to conspicuously disclose to sellers and obtain seller approval for any payment or offer of payment that the listing broker or seller will make to another broker, agent, or other representative (e.g., a real estate attorney) acting for buyers; and such disclosure must be in writing, provided in advance of any payment or agreement to pay to another broker acting for buyers, and specify the amount or rate of any such payment.

MLSs must require MLS Participants to disclose to prospective sellers and buyers in conspicuous language that broker commissions are not set by law and are fully negotiable in their listing agreement if it is not a government-specified form, in their agreement with buyers if it is not a government-specified form, and in pre-closing disclosure documents if there are any and they are not government-specified forms. In the event that the listing agreement, buyer representation agreement, or pre-closing disclosure documents are a government form, then MLS participants must include a disclosure with conspicuous language expressly stating that broker commissions are not set by law and are fully negotiable.

To the extent that the multiple listing services publishes form listing agreements, buyer representation agreements, or pre-closing disclosure documents for use by REALTORS<sup>®</sup>, participants, and/or subscribers, ensure that those forms include language disclosing to prospective sellers and buyers in conspicuous language that broker commissions are not set by law and are fully negotiable.



# Filtering Results

MLSs must require that MLS Participants and subscribers must not filter out or restrict MLS listings communicated to their customers or clients based on the existence or level of compensation offered to the broker assisting the buyer.

# Timeline for changes:

- WRIST adopted Appendix B (Settlement Agreement) on 5/18/2024 (Deadline: 6/18/2024)
- NAR will provide model MLS rules no later than 8/17/2024
- Ohio Realtors is updating their forms and contracts and will be available 7/1/2024
- Local Board will also be updating their listing contracts with required verbiage: TBD
- HB466 would make a state requirement for buyer's agents to use Buyer Representation Agreements. Passed by House and is currently in the Senate. This could pass before they adjourn in June.
- MLS removal of compensation fields: TBD (Deadline: 9/16/2024)

# Buyer Broker Field

- Buyer Broker field is still currently displayed in the MLS.
- This field will be removed at a future date.
- Business rules for buyer broker have been updated to allow for (0) *zero*.
- If your brokerage chooses to omit offers of compensation; (0) zero can be entered into the buyer broker field.
- If a buyer broker/agent encounters an offer of (0) *zero*, they will need to communicate offers of compensation outside of the MLS.
- Once the MLS removes the buyer broker field (TBD), no other avenues of communicating offers of compensation can be used inside the MLS. This includes broker remarks, document attachments, hyperlinks inside the MLS and showing instructions.

# Additional Resources

- WRIST Document: [Appendix B](#)
- National Association of Realtors: [FACTS.REALTOR](#)
- Ohio Realtors: [Settlement Updates](#)
- [Ohio House of Representatives Approve Legislation on Written Agency Agreements](#)
- [Ohio Realtors attorneys discuss Settlement Agreement \(Video\)](#)

Stay tuned for future updates!



Thank  
you

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