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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, Brewer, Carruthers, Dobos, Grim, Gross, Hoops, Isaacsohn, Jarrells, Jones, Lorenz, Mathews, Miller, A., Miller, M., Oelslager, Patton, Pavliga, Richardson, Russo, Sims, Thomas, C., Troy, White



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 14
offer to lease a residential premises on behalf of a purchaser 15
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 45
agreement to a client in a timely manner after the licensee and 46
the client have signed and dated it. 47

Sec. 4735.56. (A) Each brokerage shall develop a written 48
brokerage policy on agency to be given to prospective sellers 49
and purchasers in accordance with divisions (C) and (D) of this 50
section. 51

(B) The brokerage policy on agency described in division 52
(A) of this section shall include all of the following 53
information: 54

(1) An explanation of the permissible agency relationships 55
available under section 4735.53 of the Revised Code and the 56
duties that the agent owes the agent's client; 57

(2) The brokerage's policy on representation of purchasers 58
or sellers; 59

(3) Whether at some time during the agency relationship 60
the brokerage and its licensee may act as a dual agent, and the 61
options and consequences for the client if a dual agency 62
situation arises including the right of the client to terminate 63
the agency relationship and seek representation from another 64
source; 65

(4) Whether at some time during the agency relationship, 66
another licensee affiliated with the same brokerage as the 67
licensee may become the exclusive agent for the other party in 68
the transaction and whether each licensee will represent only 69
the interests of that licensee's client; 70

(5) The brokerage's policy on cooperation with other 71
brokerages, including whether the brokerage offers compensation 72
to other brokerages or will seek compensation from other 73
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) A licensee ~~acting as a seller's agent working directly~~ 81
with a seller in a real estate transaction shall provide the 82
seller with the brokerage policy on agency described in this 83
section ~~prior to marketing or showing the seller's real estate~~ 84
at the time the licensee and seller enter into an agency 85
agreement, if required by section 4735.55 of the Revised Code 86
or, if an agency agreement is not required by that section, 87
prior to marketing or showing the seller's real estate, and 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 104
whether the purchaser has the financial ability to purchase or 105
lease a particular real estate property; 106

(2) Requesting specific financial information from the 107
purchaser to determine the purchaser's ability to purchase or 108
finance real estate in a particular price range; 109

(3) Showing the real estate to the purchaser other than at 110
an open house; 111

(4) Discussing, with the purchaser, the making of an offer 112
to purchase or lease real estate; 113

(5) Submitting an offer to purchase or lease real estate 114
on behalf of the purchaser; 115

(6) Entering into an agency agreement with the purchaser 116
under section 4735.55 of the Revised Code. 117

(E) If the earliest event described in division (D) of 118
this section is by telephone or electronic mail, the licensee 119
shall disclose by that same medium the nature of the agency 120
relationship that the licensee has with both the seller and the 121
purchaser. The licensee shall provide the purchaser with the 122
brokerage policy on agency described in this section at the 123
first meeting with the purchaser following this disclosure of 124
the agency relationship. 125

(F) A licensee acting as a seller's agent is not required 126
to provide a purchaser with the brokerage policy on agency 127
described in this section except in the case of an event 128

described in division (D) of this section.	129
(G) The requirements of this section regarding provision	130
of a brokerage policy on agency apply only in the following	131
situations:	132
(1) The sale or lease of vacant land;	133
(2) The sale of a parcel of real estate containing one to	134
four residential units;	135
(3) The leasing of residential premises as defined in	136
section 5321.01 of the Revised Code, if the rental or lease	137
agreement is for a term of more than eighteen months.	138
Sec. 4735.59. To change the party a licensee represents in	139
a real estate transaction after an agency disclosure statement	140
has been signed and dated or , following verbal disclosure of	141
the agency relationship, <u>or following an agency agreement under</u>	142
<u>section 4735.55 of the Revised Code,</u> the licensee shall obtain	143
written consent from the party originally represented to	144
represent another party in the transaction. The licensee shall	145
promptly notify all persons who had been notified of the	146
original relationship.	147
The Ohio real estate commission may adopt rules in	148
accordance with Chapter 119. of the Revised Code to provide for	149
required disclosures when a licensee terminates an agency	150
relationship and becomes a principal in the transaction.	151
Section 2. That existing sections 4735.55, 4735.56, and	152
4735.59 of the Revised Code are hereby repealed.	153