

**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**

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**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

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| (4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;   | 103<br>104   |
| (5) Submitting an offer to purchase or lease real estate on behalf of the purchaser;   | 105<br>106   |
| <u>(6) Entering into an agency agreement with the purchaser under section 4735.55 of the Revised Code.</u>   | 107<br>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<br>110<br>111<br>112<br>113<br>114<br>115<br>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<br>118<br>119<br>120                             |
| (G) The requirements of this section regarding provision of a brokerage policy on agency apply only in the following situations:   | 121<br>122<br>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<br>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<br>128<br>129                                    |
| <b>Sec. 4735.59.</b> 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