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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

Senators Brenner, Cirino, Craig, DeMora, Gavarone, Hicks-Hudson, Ingram, Johnson, Reynolds, Romanchuk

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 13
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

(7) A conspicuous statement that broker fees and 43
commissions are not set by law, are fully negotiable, and may be 44
paid by the seller, the buyer, the landlord, the tenant, or a 45
third party, or by sharing or splitting the fees and commissions 46
between brokers. 47

~~(B)~~ (C) Each written agency agreement shall contain a 48
place for the licensee and the client to sign and date the 49
agreement. 50

~~(C)~~ (D) A licensee shall furnish a copy of any written 51
agency agreement to a client in a timely manner after the 52
licensee and the client have signed and dated it. 53

Sec. 4735.56. (A) Each brokerage shall develop a written 54
brokerage policy on agency to be given to prospective sellers 55
and purchasers in accordance with divisions (C) and (D) of this 56
section. 57

(B) The brokerage policy on agency described in division 58
(A) of this section shall include all of the following 59
information: 60

(1) An explanation of the permissible agency relationships 61
available under section 4735.53 of the Revised Code and the 62
duties that the agent owes the agent's client; 63

(2) The brokerage's policy on representation of purchasers 64
or sellers; 65

(3) Whether at some time during the agency relationship 66
the brokerage and its licensee may act as a dual agent, and the 67
options and consequences for the client if a dual agency 68
situation arises including the right of the client to terminate 69

the agency relationship and seek representation from another 70
source; 71

(4) Whether at some time during the agency relationship, 72
another licensee affiliated with the same brokerage as the 73
licensee may become the exclusive agent for the other party in 74
the transaction and whether each licensee will represent only 75
the interests of that licensee's client; 76

(5) The brokerage's policy on cooperation with other 77
brokerages, including whether the brokerage offers compensation 78
to other brokerages or will seek compensation from other 79
brokerages; 80

(6) That a brokerage that has a purchaser as a client 81
represents the purchaser's interests even though the seller's 82
agent or the seller may compensate that purchaser's brokerage; 83

(7) That the signature of the purchaser or the seller 84
indicates acknowledgement of receipt of the brokerage policy on 85
agency. 86

(C) A licensee acting as a seller's agent working directly 87
with a seller in a real estate transaction shall provide the 88
seller with the brokerage policy on agency described in this 89
section ~~prior to marketing or showing the seller's real estate~~ 90
at the time the licensee and seller enter into an agency 91
agreement, if required by section 4735.55 of the Revised Code 92
or, if an agency agreement is not required by that section, 93
prior to marketing or showing the seller's real estate, and 94
shall obtain a signature from the seller acknowledging receipt 95
unless the seller refuses to provide a signature. If the seller 96
refuses to provide a signature, the licensee shall note this on 97
the policy. 98

(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 128
brokerage policy on agency described in this section at the 129
first meeting with the purchaser following this disclosure of 130
the agency relationship. 131

(F) A licensee acting as a seller's agent is not required 132
to provide a purchaser with the brokerage policy on agency 133
described in this section except in the case of an event 134
described in division (D) of this section. 135

(G) The requirements of this section regarding provision 136
of a brokerage policy on agency apply only in the following 137
situations: 138

(1) The sale or lease of vacant land; 139

(2) The sale of a parcel of real estate containing one to 140
four residential units; 141

(3) The leasing of residential premises as defined in 142
section 5321.01 of the Revised Code, if the rental or lease 143
agreement is for a term of more than eighteen months. 144

Sec. 4735.59. To change the party a licensee represents in 145
a real estate transaction after an agency disclosure statement 146
has been signed and dated ~~or,~~ following verbal disclosure of 147
the agency relationship, or following an agency agreement under 148
section 4735.55 of the Revised Code, the licensee shall obtain 149
written consent from the party originally represented to 150
represent another party in the transaction. The licensee shall 151
promptly notify all persons who had been notified of the 152
original relationship. 153

The Ohio real estate commission may adopt rules in 154
accordance with Chapter 119. of the Revised Code to provide for 155
required disclosures when a licensee terminates an agency 156

relationship and becomes a principal in the transaction. 157

Section 2. That existing sections 4735.55, 4735.56, and 158
4735.59 of the Revised Code are hereby repealed. 159