

# NAR SETTLEMENT GUIDE

## For Buyers and Sellers



As of August 17th, 2024, new practice changes have gone into effect surrounding buyer's agent compensation. While compensation has always been negotiable, these practice changes focus on empowering consumer choice during the home buying and selling process. Below is a breakdown of the major changes that both buyers and sellers can expect.

### FOR BUYERS

To start, here is a little background to bring you up to speed: A class-action lawsuit was filed back in March of 2019 after a group of home sellers alleged they were required to pay the broker representing the buyer of their homes an inflated amount, which they claimed is a violation of the federal Sherman Antitrust act. The plaintiffs in the case (the home sellers) brought this lawsuit against the National Association of Realtors (NAR). On March 15th, 2024, NAR announced a settlement to resolve this antitrust lawsuit related to real estate commissions. NAR agreed to pay \$418 million to settle the lawsuits and agreed to a new set of rules that have taken effect on August 17th, 2024.

Prior to this settlement, it was customary that the seller would pay the buyer's agent commission. While the number of sellers offering buyer's agent compensation decreased slightly when these new rules went into effect, the overwhelming majority of sellers are still covering the buyers agent commission. In the few cases where sellers opt out of paying the buyer's agent commission, the buyers are then responsible for that cost. This is where the first change comes into play; the buyer agreement.

In order to start touring homes both in person and virtually, you will need to sign a written buyer agreement with your agent that outlines the services provided by your agent and the compensation in which they will receive. Before signing the agreement, you should ensure it reflects the terms negotiated with your agent and the value and services that will be provided. Remember, compensation is always negotiable.

Buyer's agents play a pivotal role in the home buying process. For many consumers, buying a home is the largest investment you will ever make, which is why it is crucial to have a trusted advisor working on your behalf throughout the process. Buyer's agents use their extensive experience to navigate difficult negotiations, write clear and concise offers, and help consumers avoid making common mistakes. For these reasons, it is important that buyer's agents are compensated and the buyer agreement ensures this happens.

Forms of compensation include:

- Fixed fee commission paid for by the buyer
- Concession from the seller
- Portion of listing agent compensation

### FOR SELLERS

As a home seller, you still have the choice to offer compensation for the buyer's agents and it may be in your best interest to do so as this would attract more buyers to the property.

Additional practice changes include how and where real estate professionals can communicate about offers of compensation. These offers can no longer be posted on the MLS. However, sellers are still able to offer compensation outside of the MLS. Sellers can also provide buyer concessions through the MLS, such as concessions for buyer closing costs.

Agents are required to clearly disclose and obtain sellers' approval for any payments or offers of payment that the listing broker intends to make to a buyer's broker.

**SOURCE:** National Association of Realtors (NAR)