

What Buyers and Sellers Need to Know About New Real Estate Rules

Buyers and sellers have more room to negotiate commissions, and that could reduce home prices over the long run.



Although the spring home-buying season is several months away, buyers and sellers have some motivation to come off the sidelines. In early September, a 30-year fixed-rate mortgage had an average 6.35% interest rate, down from 7.12% a year earlier, according to Freddie Mac. And a \$418 million settlement reached earlier this year with the National Association of Realtors led to new requirements for real estate transactions in ways that could save you money on the purchase or sale of a home.

The settlement stemmed from class-action lawsuits that claimed the industry-wide practice of requiring seller's agents to specify the commission being offered to buyer's agents artificially inflated real estate commissions. The NAR, which agreed to settle the lawsuits but denied the allegations, says commissions have always been negotiable, but they've generally held at 5% to 6% of the sale price for years.

Under rules that took effect in August, listing agents are prohibited from offering commission splits to buyer's agents on Multiple Listing Services, which real estate professionals use to

share information about homes for sale in a particular area. Sellers who list a home on an MLS can negotiate a fee with a seller's agent and decide whether to pay the buyer's agent.

Meanwhile, home buyers who choose to work with a buyer's agent will be required to sign an agreement that details how much they'll pay for the agent's services. When the buyer agrees to purchase a home, the money to pay the buyer's agent can come from the seller's agent, the seller or the buyer, depending on the terms negotiated.

In the long run, the change could result in lower home prices, according to *The Kiplinger Letter*. Although buyers haven't paid for commissions directly, they've paid for them indirectly through the higher prices sellers sought to cover the agents' fees. Under the previous rules, Americans paid roughly \$100 billion in real estate commissions a year. A homeowner looking to sell a \$500,000 home, for example, could expect to spend up to \$30,000 on commissions alone.

What buyers need to know

Home buyers who use a buyer's agent will probably be the first to notice how the rules have changed, because they'll be required to enter into a written agreement that details how much they'll pay the agent in commissions if the seller doesn't agree to pay the full amount. (Some states required written contracts before the new rules took effect, but now buyers in all states will have to sign contracts.)

In the past, home buyers would typically work with a buyer's agent without a formal contract in place because it was understood that the seller would pay the entire commission.

Don't commit to a long-term, exclusive contract until you've had an opportunity to view several homes and determine whether you want to work with the agent, the [Consumer Federation of America \(CFA\)](#) says.

Zillow, the online real estate brokerage, recommends signing a seven-day touring agreement before entering into a contract with an agent. Its website contains samples of [state-specific touring agreements](#) (not all states are represented). Zillow's touring agreement states that buyers won't be charged a fee for touring services and stipulates that if the buyer wants to hire the agent for additional services, the parties will reach a separate agreement.

Consumer Advocates in American Real Estate, a nonprofit group, offers a [template for an agreement to tour homes](#). The site also offers templates of compensation agreements for buyer's and seller's agents.

If after touring homes you decide to hire a buyer's agent, don't hesitate to negotiate, says [Steve Brobeck, executive director of the CFA](#). He recommends offering 2% of the sale price or lower, depending on the services required.

If you're willing to do some of the work yourself — for example, you prefer to do your own home search but want help making an offer — the agent may be willing to accept a flat fee for specific services, says Richard Hopen, founder of SmartBuyers AI, which provides education and advice for home buyers. Some real estate brokerage firms are already experimenting with new pricing

models, such as offering buyers and sellers a menu of services, with a billing rate for each service available.

When reviewing a contract, look for red flags, such as a requirement to compensate an agent before you decide to become a client, or a provision that combines compensation for the listing agent and buyer's agent, which violates the spirit of the new rules, the CFA says.

Because you must enter into a contractual agreement, it's more important than ever to work with a competent, reputable real estate agent, Brobeck says. Start by asking friends and relatives who have purchased homes for referrals, with the goal of identifying at least three prospective agents to interview, he says.

Use real estate websites such as Zillow and Realtor.com to research an agent's recent sales and customer reviews. Finally, a prospective agent should provide you with a copy of the contract, be willing to discuss the terms and give you plenty of time to review it.

NYSUT NOTE: If you're trying to purchase a new home, NYSUT Member Benefits endorses a [Mortgage Discount Program](#) to help you save up to \$2,700 in lender fees and closing costs. And it's not just for new home buyers—this program also assists people in refinancing their existing mortgages or undertaking a home improvement project.

What sellers need to know

If you have decided to put your home on the market, you still have the option of offering compensation to a buyer's agent. This decision will depend on several factors, including your local housing market and whether you think paying a buyer's agent or broker will make your home more attractive to potential buyers.

Your own real estate agent (if you use one) must receive your approval for any agreement to pay a buyer's broker, as well as the amount of the payment. The terms of the agreement must be disclosed to you in writing.

Note: This item first appeared in Kiplinger Personal Finance Magazine, a monthly, trustworthy source of advice and guidance.

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