

FORMS IMPACTING BUYERS

There are now three types of agency relationships

- Exclusive Buyer Agency (Updated)
- Non-Exclusive Buyer Agency (Updated)
- Limited Services/Transaction Broker (New)

Changes made to the Exclusive Buyer's Agency and Non Exclusive Buyer's Agency Contract:

- Removed reference to compensation in MLS (Line 76-77 of current EBA)
- New: Compensation not set by law & negotiable (Line 74-75)
- New: Compensation to Buyer's agent cannot exceed what is in Buyer's Agency (Line 86-88)
New: The option to add Retainer/Additional Compensation Addendum (Line 92)
- New: Buyer representations 4a (Line 21) written agreement required
- Paragraph 6E:
BUYER shall be released and relieved of any obligation to pay the BROKER'S fees described herein, if through no fault on the part of the BUYER, the Seller fails to close the transaction. If such transaction fails to close because of any breach of the sale Contract on the part of BUYER, BROKER'S fees will not be waived, but will be due and payable by BUYER immediately
- Same changes were made to Non-Exclusive Buyer's Agency, however line numbers differ.

Limited Services/Transaction Broker (New)

Agents expecting compensation are to enter into *at a minimum* a Transaction Broker Relationship. The Limited Services Agreement provides for a third option; buyer understands the limited services arrangement between buyer and broker, but compensation is clearly defined, and matches that of the Exclusive & Non-Exclusive agreements.

Buyer Agency Contract Amendment (New)

Buyer's agency contracts that are **active but not under contract** at the time that shared compensation is removed from the MLS will need to be amended, as current language stipulates that compensation will be X% or whatever is in MLS, whichever is greater, conflicting with settlement requirements.

Retainer/Additional Compensation Addendum (New)

The new Missouri agency forms included language for agents & brokers to take a Retainer fee from buyers. The committee felt it would be difficult to administer for brokerages but did not want to remove the option given by the State.

PURCHASE AGREEMENTS

- With the removal of shared compensation from the MLS, buyers have the option to ask that the broker assisting them be paid by the seller.
- Third party beneficiary language added due to new compensation provision (Line 126-127)
- Seller's compensation to Broker assisting Buyer added to Seller Expenses (Line 206 – 207)

- Compensation not set by law and negotiable (Line 710)
- Brokers are acting pursuant to separate agency agreements (Line 713-714)
- Same changes were made to Land and New Homes contracts, however line numbers differ.
- Counter Offer Addendum updated to include buyer broker compensation

FORMS IMPACTING SELLERS

- Current Exclusive Right to Sell says brokers will cooperate and compensate; “and compensate” was removed (Line 39)
- Paragraph 9 is a consent and clarification for the ways a broker may operate; description was simplified (Line 283 -284)
- New: Compensation not set by law & negotiable (Line 296-297)
- Compensation for listing broker is expressly defined (Line 299 – 302)
- Seller is made aware they may make an offer to the buyer’s broker (Line 308-310) • Seller sets willingness to make an offer of compensation and sets criteria for disclosure of such offer (Line 312-316)
- Protection Period paragraph was not changed, but named
- Title Insurance paragraph was not changed, but moved below agency and compensation (Line 335 – 341)
- Same changes were made to the Exclusive Agency and the ERTS-Transaction Broker, however line numbers differ

Seller’s Estimated Proceeds (Updated)

Made a distinct line item for buyer broker compensation

Listing Contract Amendment (New)

Listing agency contracts that are **active but not under contract** at the time that shared compensation is removed from the MLS will need to be amended, as current language stipulates that compensation will be a total amount with a shared percentage **between brokers**. This impacts Active, Pre-MLS, Temporarily Off Market & Withdrawn listings.

MISCELLANEOUS CHANGES

Additional Disclosures (Lines 76-77 & 79-80) sources of compensation match purchase agreements
 Seller’s Permission to Show (Line 48-49) compensation not set by law & negotiable
 Commercial Right to Represent (Paragraph 3a) reference to commission in MLS removed