

EFFECTIVE JANUARY 1, 2024

Changes to Real Estate Law in Washington

Significant changes are on the horizon for real estate laws in Washington, coming into effect on January 1, 2024. This marks the most substantial revision to the agency statute since its inception in 1997, addressing the evolving real estate landscape. The revamped pamphlet formerly known as The Law of Agency, now named Real Estate Brokerage in Washington, not only modernizes existing regulations but introduces enhanced safeguards and sustained transparency for both buyers and sellers.

To understand the impact of these changes, let's rewind a bit. In the past, Washington brokers exclusively represented sellers, leaving buyers without dedicated representation. The introduction of the Law of Agency in 1997 allowed brokers to extend representation to home buyers, although without a mandatory agreement outlining the broker-buyer relationship.

Starting January 1, 2024, a comprehensive overhaul of existing laws will be implemented, featuring key updates such as:

- ➔ A mandatory requirement for brokers to engage in a written agreement with buyers known as the Buyer Broker Services Agreement. This agreement delineates the terms of representation and compensation, affording buyers the opportunity to actively negotiate these terms.
- ➔ Enhanced disclosure of limited dual agency, allowing consumers the agency to willingly consent to such a relationship, departing from the prior passive consent model.
- ➔ Requirements for brokers to provide the Real Estate Brokerage in Washington pamphlet to their clients, as well as any unrepresented parties.

WHAT DOES THIS MEAN FOR YOU?

For Buyers:

Starting January 1, 2024, buyers will be required to enter into a Buyer Broker Services Agreement before, or as soon as reasonably practical after, your broker provides real estate services. This agreement covers critical elements such as the term of the agreement, the exclusivity of the working relationship, the agreed compensation rate, and how your broker will be compensated (by the seller, by the buyer, or possibly a combination of both). Additionally, buyers now have the right to request their broker to filter listings, ensuring they are not shown properties with compensation rates below their agreed terms.

For Sellers:

Notable changes for sellers include the newfound negotiability of the compensation rate you may be offering to a buyer broker. Previous to 2022, MLS rules prevented buyers and their brokers to negotiate the seller's advertised compensation rate. Furthermore, buyers can now influence the listing process by requesting their broker to filter out listings that do not align with their compensation agreement.

These amendments signify a considerable stride toward modernization and heightened transparency within the real estate sector in Washington. The introduction of the Buyer Broker Services Agreement not only empowers buyers but also ushers in a paradigm shift in negotiation practices for the benefit of sellers. As we embark on this regulatory transformation, it is evident that these changes will foster a more equitable and informed real estate environment for all parties involved.

FREQUENTLY ASKED QUESTIONS:

How do I know what compensation rate a seller is offering to a buyer broker?

In Washington state, all online listings provide a Buyer Agency Compensation (BAC) or a Buyer Brokerage Commission (BBC) section, ensuring transparency. This helps buyers prepare if the BAC/BBC is less than their agreed rate in the Buyer Broker Services Agreement.

What if the home I want to purchase offers a BAC/BBC rate less than agreed upon in the Buyer Broker Services Agreement?

If the compensation rate is lower than your agreement, have a conversation with your broker to explore options. You might discuss asking the seller to increase their rate, consider covering the difference yourself, or your broker may choose to waive the difference. Several options are available to you to address the delta in compensation rates.

How do I terminate the new Buyer Broker Services Agreement?

To end the agreement, request a termination form from your broker. Keep in mind there may be an agreed-upon tail provision; you might owe your broker compensation if you buy a home they showed you after termination within a specified time. Make sure to review your agreement to be aware of this timeline.

Can I enter into Buyer Broker Service Agreements with more than one broker?

The possibility depends on the nature of your relationship. If you have an exclusive agreement with a broker covering an unlimited area, they are your sole broker when it comes to purchasing a home. However, exclusive agreements for different areas (e.g., counties) with different brokers are possible. Non-exclusive agency agreements allow engagement with multiple brokers simultaneously.

Are all Buyer Broker Services Agreements the same?

Not exactly. While the law outlines the minimum terms required, variations exist among forms. The Northwest Multiple Listing Service (NWMLS) offers its version known as Form 41A. Your broker's firm may also have their own version of the agreement, or you may be asked to sign a digital version before viewing a home. It is important that you review the agreement and included terms to understand the agency relationship you are entering in to.

Have more questions before you are ready to navigate the future of Washington's real estate? Reach out and let's connect!

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