

## ADVISORY REGARDING REAL ESTATE COMPENSATION

This Advisory Regarding Real Estate Compensation (this “Advisory”) describes how real estate compensation works and the choices buyers and sellers have available to them when hiring a real estate agent.

**1. COMPENSATION AGREEMENTS:** There are two kinds of real estate compensation agreements: agreements with sellers – frequently called “Listing Agreements,” and agreements with buyers – frequently called “Buyer Representation Agreements.” These agreements describe the services that real estate agents perform and provide them with a right to receive compensation. Oral agreements to perform these services are void under Oregon law.

**2. TIMING OF COMPENSATION PAYMENT:** The compensation agreement will describe the conditions under which the compensation will be paid. The agreement may provide various due dates: an up-front payment, a payment when a real estate agent has incurred expenses on the client’s behalf, a payment that becomes due when a sale agreement is signed, or a payment that is made through escrow when a sale transaction closes. Because the conditions may never be satisfied, real estate agents are not always paid for the work they do.

**3. RECIPIENTS OF COMPENSATION:** Real estate compensation is paid to the brokerage(s) whose real estate agents are involved in a transaction. Those brokerages then pay part of that compensation to the real estate agent(s) involved. Real estate agents may share part of the compensation they receive with other real estate agents: for example, the real estate agent may be part of a team where real estate agents have worked together on the transaction, or a seller’s real estate agent may provide part of their compensation to the buyer’s real estate agent, or a real estate agent may provide part of their compensation to a real estate agent who provided a referral. Before agreeing to share compensation with an agent representing the other party in a transaction, real estate agents disclose to their clients the terms and amount of the shared compensation. Real estate agents frequently pay out of their compensations the expenses they incur in connection with a transaction such as payments to assistants or payment of advertising costs.

**4. NO STANDARD COMPENSATION RATES:** Buyers and sellers are free to negotiate the amount of compensation with their real estate agent. The amount buyers or sellers pay to their real estate agent might depend on many factors, including:

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- (a) how quickly the real estate agent is able to achieve the buyer's or the seller's transaction goals;
- (b) whether buyers or sellers believe a certain level of compensation will incentivize the results they want;
- (c) compensation being paid in other home transactions; and
- (d) how active the real estate market is – whether there are many or few transactions taking place.

**5. COMPENSATION ADJUSTMENTS:** Clients of real estate agents receive OREF 042 – Oregon Real Estate Agency Initial Agency Disclosure Pamphlet, which describes the duties and responsibilities of real estate agents. Two of those real estate agent duties are: (a) to be loyal to their clients by not taking action that is adverse or detrimental to the clients' interests in transactions; and (b) to disclose in a timely manner to their clients any conflict of interest, existing or contemplated. Real estate agents may have a conflict of interest when they advocate for their own compensation at the same time that they are advocating for their client's interests in a transaction. Real estate agents do not introduce discussions of their compensation into transactions because they are prioritizing Client's interests ahead of their own. However, if Client wants their real estate agent to be paid by the other party in a transaction, Client can instruct their real estate agent to make that request in the Sale Agreement or an addendum. Parties are not required to agree to any such request. Buyers who are obtaining financing for a purchase should ask their lender whether there are limitations surrounding the financing of real estate compensation or seller payment of closing costs.

By signing below, Client acknowledges this disclosure of the conflict of interest that real estate agents may have with respect to compensation, and the Client waives the conflict. A provision of the Oregon statutes that govern real estate agents provides for regulatory discipline against real estate agents who interfere with the contractual relationships of others concerning real estate activity. Real estate agents will not request that another real estate agent's compensation be reduced or take any other action that would constitute interference with another real estate agent's compensation agreement.

**6. THE VALUE OF HIRING A PROFESSIONAL:** For many people, a real estate transaction is the largest and most important transaction of their lives. Real estate agents are trained in the skills buyers and sellers need to make their transaction

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successful. Real estate agents have the marketing, negotiation, due diligence, and other skills needed to achieve the best results for buyers and sellers.

**7. ACKNOWLEDGMENT:** The undersigned party(ies) acknowledge(s) that: (a) they have read and understand this advisory; (b) they have been provided with a copy for their own files; (c) their real estate agent has disclosed any conflict of interest arising out of compensation adjustments as described in this Advisory; and (d) they waive that conflict.

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