

Agreement to Share Commission With Un-Represented Buyer
(Agreement)

WARNING: CAARE has not investigated the legal requirements of this form for any particular state. CAARE disclaims any liability arising out of the use or misuse of this form. **YOU SHOULD HAVE AN ATTORNEY REVIEW THIS CONTRACT BEFORE SIGNING IT.**

Use This Form at Open Houses and When Setting Up Appointments to View a House Listed By a Broker

If this form is not used, it is likely that an additional 3% or more of the purchase price will be lost to the listing broker. That will affect the net amount payable to the seller and hurt the Buyer’s negotiating position by the same amount.

This is a legal document and you should consider hiring an attorney for advice regarding its use in your state.

Home Buyer (I or me):

Brokerage Firm (YOU):

Licensee/Salesperson (YOU):

Property Address (PROPERTY):

Listing Broker to Share Compensation With Buyer

You are offering total compensation (including bonuses) of to cooperating brokers who procure a buyer for the purchase of the above-described property. By signing below, the Licensee, acting on authority of their broker (YOU), agrees to share all of this compensation with ME. If a commission dispute arises in which a broker claiming to represent ME is claiming all or part of this compensation, then the Listing Broker shall not be responsible to pay any more than the total amount identified above.

NOTE: The National Association of Realtors prohibits Conditional Offers of Compensation in the MLS. That means that even if the Buyer had utilized a broker’s service to buy the house and that broker did little or no work, the Buyer’s broker would still be entitled to the full compensation offered in the Multiple Listing Service (“MLS”) (so long as the Buyer’s broker was the procuring cause of the transaction). The same logic should apply to an unrepresented buyer and therefore it is **NOT RECOMMENDED that the buyer accept anything less than what is offered in the MLS.**

Informational

The commissions or compensation that Listing Brokers charge sellers are designed to be shared with other brokers. All properties that are listed in the MLS include an offering of compensation to cooperating brokers that is often a percentage of the purchase price such as 3% or 3.5%. So if they charge a 6% commission to the seller, then 3% will typically be offered to brokers working with the buyer. Many home buyers falsely believe that they are saving money by finding properties on the internet on their own when in reality all they are doing is handing over a windfall of an extra 3% or more to the listing broker (money that was intended to be shared with the buyer broker). This form is intended to help redirect that money (the shared portion of the commission) to the buyer.

Be aware that the compensation offered in the MLS often includes an extra bonus payable to cooperating brokers. Require the Listing Broker to provide a copy of the compensation section of the MLS to verify how much was offered.

In most states it is perfectly legal and expected for the broker to share their commission with a principal to the transaction (after all, commissions are supposed to be negotiable). In a handful of states in opposition to the Department of Justice’s recommendations, it is illegal. If the practice is illegal, then consider other options such as working with the seller and asking the broker to waive the commission split portion due from the seller. The seller should then be able to lower the purchase price by the same amount.

WARNING: ALWAYS SHOW THIS AGREEMENT AS SOON AS POSSIBLE TO BUYER’S LENDER TO AVOID PROBLEMS AT CLOSING.

Home Buyer’s Signature

Date

Licensee’s Signature (on behalf of broker)

Date

Re: Property located at

Date:

Dear Seller of Above-Referenced Property:

I am a qualified buyer who is unrepresented by a real estate broker and am interested in seeing your house. However, I was turned away today by your real estate firm.

I am representing myself and I am only interested in viewing properties where I can save money by doing the work myself. If I had been working with a buyer's broker, your broker would have shared their commission with him. Your broker however is not willing to share that same commission with me even though it is legal* to do so. Instead, your broker wants to keep both parts of the commission – even the portion designated for the buyer's side of the transaction. Apparently, the only way I can collect the portion of the commission designated for the buyer's side is to hire a buyer broker to collect this fee who will then give it to me. I am not willing to do that.

Perhaps when you negotiated your listing contract your broker did not address with you what would happen if an unrepresented buyer wanted to buy your house. If that is the case, perhaps additional negotiations could take place regarding this situation?

As a condition of viewing your house, I asked your agent to sign the form included on the opposite side of this letter. All that form does is ask your broker to share with me the compensation that they were willing to share with my broker, if I had one. If your broker feels that there is too much work in doing this, then I am perfectly fine hiring my own attorney to draft the purchase agreement and represent me in the transaction.

I am very sorry I was unable to see your home. Please do call me at if your broker has a change of heart. Thank you for your consideration.

Sincerely,

Print and Sign Name

* As of 8/25/2011 it is legal to share commissions with a principal to a residential transaction in the following states: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Nevada, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.