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H.B. 466*
135th General Assembly

Bill Analysis

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Version: As Reported by the Senate Select Committee on Housing

Primary Sponsors: Reps. Schmidt and Brennan

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SUMMARY

- Requires written agency agreements for licensed brokers representing other parties in residential real estate transactions.

DETAILED ANALYSIS

Real estate agency agreements

Current law allows, but does not require, real estate brokers and salespersons to enter into written agency agreements with the buyers and sellers they represent. However, if a broker or salesperson chooses to enter into such an agreement, the law imposes certain content-based requirements. Specifically, the agreement must include the following:

- An expiration date;
- A statement that it is illegal to deny housing accommodations based on race, color, religion, sex, familial status, ancestry, military status, disability, or national origin;
- A statement about the illegality of “blockbusting;”
- A copy of the U.S. Department of Housing and Urban Development Equal Housing Opportunity logotype.

Under the bill, brokers and salespersons are required to enter into written agency agreements prior to engaging in activities on behalf of a buyer or seller in residential real estate transactions. If the broker or salesperson is working on behalf of a seller, they must enter into the agreement prior to marketing or showing the seller’s residential real property. If the broker or salesperson is working on behalf of a buyer, they must enter into the agreement prior to

* This analysis was prepared before the report of the Senate Select Committee on Housing Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

making an offer to purchase residential real property on behalf of the buyer or prior to making an offer to lease a residential premises on behalf of the buyer for a term exceeding 18 months.

The bill requires that the written agency agreement include, in addition to information required under current law, all of the following:

- A statement that the broker or salesperson is appointed as an agent of the client;
- An indication of whether the agency relationship is exclusive or nonexclusive;
- The terms by which the broker or salesperson is to be compensated;
- A conspicuous statement that broker fees and commissions are not set by law, are fully negotiable, and may be paid by any party to the transaction, or a third party.

The bill limits the content-based requirements to residential real estate transactions. As a result, a broker or salesperson that represents a buyer or seller in a commercial real estate transaction, or that represents a buyer in a rental transaction for a term of 18 months or less, is not subject to the content-based requirements added by the bill or those prescribed by current law.¹

Brokerage policy

Current law requires a broker or salesperson working as part of a brokerage (i.e., a business that is issued a broker's license) to provide a seller with their brokerage policy on agency prior to marketing or showing the seller's real estate. The bill specifies that, if a written agency agreement is required, the policy must be provided at the time the parties enter into that agency agreement.² Under current law, a broker or salesperson working with a buyer must provide the buyer with their brokerage policy prior to the occurrence of any of a list of actions. The bill adds entering into an agency agreement to the list.³

Change in representation

Continuing law requires a broker or salesperson that wishes to change the party they are representing in a real estate transaction to do both of the following:

- Obtain written consent from the party they originally represented;
- Promptly notify all persons involved in the transaction of the original relationship.

This requirement applies after an agency disclosure statement is signed and dated by the original party or following verbal disclosure of the agency relationship to that party. The bill adds that the requirement applies following a written agency agreement.⁴

¹ R.C. 4735.55.

² R.C. 4735.56(C).

³ R.C. 4735.56(D)(6).

⁴ R.C. 4735.59.

HISTORY

Action	Date
Introduced	03-27-24
Reported, H. Civil Justice	05-01-24
Passed House (88-1)	05-08-24
Reported, S. Select Committee on Housing	--
