

A Homebuyer's Guide to Understanding the NAR Settlement



Navigating the real estate market as a first-time homebuyer can be challenging. Recent changes resulting from the National Association of Realtors® (NAR) settlement have added complexity to the process, even for experienced homebuyers. To help you prepare for the new homebuying process, we're reviewing details of the NAR settlement, its implications for homebuyers, and offering practical advice on working with real estate agents and preparing to buy a home.

What is the NAR Settlement?

The NAR settlement stems from a court ruling aimed at increasing transparency and fairness in real estate transactions. Traditionally, sellers' agents paid a portion of their commission (standard 5% to 6% paid by the home seller) to the buyers' agent (standard 2.5% to 3%), often without explicit agreement from the buyers. The new rules, effective from August 17, 2024, require homebuyers to sign a mandatory agreement with their agents, detailing commission structures and other legal obligations upfront.

3 Key Changes of the NAR Settlement and Their Impact

1. Mandatory contracts to work with a real estate agent to buy a home:

Buyers will be asked to sign a detailed contract with their real estate agent before touring a home, including both in-person and live tours. These contracts outline the commission structure and any additional fees the buyer may incur. Before the settlement, 16 states required homebuyers to sign buyer representative agreements with a real estate agent before they submitted an offer, so this is not a completely revolutionary development in the homebuying process.

2. Negotiate your buyer's agent commission:

With buyers now responsible for funding their agents' commissions, there's an opportunity for direct negotiation on fees, which could lead to lower overall costs. The Consumer Federation of America has recommended that buyers insist on paying a flat fee of no more than 2% of the home price to their buyers' agents rather than a commission based on 2% of the purchase price of the home.

3. Contracts are legal documents that must be reviewed:

Currently, there is no standard format for the new contracts. The National Association of Realtors has [advised](#) member agents that "agreements should be organized, written in understandable terms for all parties, and use a clear, readable font size. MLS Participants are cautioned to avoid pre-filling key terms like the length of the agreement and compensation and to avoid changing provisions without legal advice."

Preparing for the New Homebuying Process

1. Understand the Contracts

Expect to be asked to sign a contract with the real estate agent before they show you a property. You do not need a written agreement if you are speaking to an agent at an open house or asking about their services.

Take the time to read and understand the contract before signing. You want to be clear on what services the agent will provide and the amount you can anticipate paying.

There is currently no standard contract, so pay attention to clauses related to commission or compensation, additional fees, and termination conditions. Remember, just like the sales price of a property, everything is negotiable. If you are finding properties online to tour in person and only need an agent to assist you with negotiating the price and completing the paperwork, you should negotiate a lower fee. On the other hand, if the agent is doing the home search based on your needs and wants, driving you around to the various properties to view, and guiding you through the entire process, they must be compensated for their work.

Home sellers have the option to offer to contribute to a portion of the buyer's agent fee. However, this amount is not allowed to be advertised on the MLS listing of the property for sale, so it would be difficult for buyers' agents to know in advance of showing a property the amount, if any, that the seller would contribute. (MLS stands for Multiple Listing Service, which are private databases created, maintained, and paid for by real estate professionals to help their clients buy and sell property. They are the source of most online property searches and are commonly used by real estate agents.)

Be cautious about seeing a house online and clicking through to a call center to be connected with an unknown agent. Before showing the house, the agent will likely require you to sign a contract. If you are at the stage of serious house hunting, take the time to interview agents first.

If you are presented with a complex contract to sign, you can discuss it with your loan officer or consult with a real estate attorney to review the contract and explain any complex terms or provisions.

2. Financing the Buyer's Agent Fee

Budgeting for your agent's commission is essential, regardless of whether you are paying a percentage of the home's purchase price or a flat fee or hoping the seller will contribute funds to cover the cost. For example, if you're looking at homes with a \$400,000 sales price, the 2% commission will be \$8,000.

Consider negotiating the fee if you are finding properties online or identifying properties by driving around the neighborhood where you want to live.

If you have the funds for the fee saved and your buyers' agent can negotiate for the seller to contribute funds towards the buyers' fee, you get to keep the remaining money, which can be used to boost your down payment or put toward your reserves.

Ensure your home financing option accounts for these additional costs. Speak with a mortgage loan officer about the best options for your situation. The four common mortgage loan options allow the seller to contribute funds toward the buyers' agent commission or fee.

- **Conforming conventional loans:** Fannie Mae and Freddie Mac, the two GSEs (Government Entities) that purchase mortgages, clarified that buyer's agent commissions are not subject to financing concession limits. Either the seller or the buyer can cover the buyer's agent commission.
- **FHA loans:** In March, the FHA confirmed that sellers can continue paying buyer-side real estate agent commissions and fees. The payments won't be treated as part of the 6% interested party contribution limit as long as the commissions and fees are "reasonable in amount." This means that the seller and other interested parties can contribute up to 6% of the sales price toward the buyers' closing costs, prepaid expenses, discount points, and other financing concessions
- **VA loans:** As of August 10, 2024, the Department of Veterans Affairs (VA) temporarily lifted its ban on VA homebuyers paying their agents' commission when purchasing a home with a VA home loan. Previously, veterans could not pay buyer-broker fees; the sellers had to cover this fee. The U.S. Department of Veterans Affairs plans to release a permanent policy in the future.
- **USDA loans:** The U.S. Department of Agriculture's loan program allows sellers to pay up to 6% of the buyer's closing costs. Funds that cover a buyer's real estate commission fees are not included in the interested party contribution limitations.

3. Researching Real Estate Agents

Interviewing multiple agents to understand their commission structures and services is important. Ensure each agent clearly explains all aspects of their agreement. Ask your loan officer, friends, family and neighbors for referrals to real estate agents.

Despite the changes, a knowledgeable and experienced local agent can be invaluable in navigating the entire buying process, especially for first-time buyers.

In selecting an agent, the [Consumer Federation of America](#) suggests that both buyers and sellers consider the following three factors:

1. Is the agent also a broker or associate broker? Brokers are required to undergo more training and frequently have more experience than agents.
2. Has the agent sold many properties recently and have they received favorable reviews from clients? Zillow, Realtor.com, and Homes.com can provide this information about most agents.

3. Will agents provide contract forms and proposed terms at the outset, give sellers or buyers adequate opportunity to read and evaluate both, and then be willing to discuss them?

4. Contract Negotiation Tips

As this agreement is new, everyone is in a similar position. Use these uncertain times to negotiate a lower commission rate and/or length of agreement. Instead of agreeing to work with a real estate agent from beginning to end, offer to sign a short-term contract to view one specific home or to tour a few over a weekend or week. This will enable you to work with the agent to decide if you want to work with them for your entire buying process and not pay anything unless you agree to buy one of the homes.

After finding an agent you want to work with, ask what their commission is, what you'll receive in return, when the commission is due, and how you'll pay it. Ask the agent what fee they expect to be paid if you decide to stop your home search or choose to work with another agent.

Once you choose an agent you want to work with, you will need to sign a buyer's agreement that details the amount of compensation, and when and how you'll pay it.

The [Consumer Federation of America](#) recommends reading and evaluating buyer or seller contracts or agreements, especially blanks that are filled in. If the contract is difficult to read and understand, don't sign it. Here are their proposed criteria for evaluating home [buyer](#) and [seller](#) contract forms.



Practical Steps for First-Time Homebuyers to Buy a Home

Navigating the homebuying process can be daunting, especially for first-time buyers. Here are some expanded practical steps to help you prepare:

1. Financial Preparedness

- Start saving early, as you'll need funds for the down payment, closing costs, home insurance, home inspection, moving expenses, and potentially your agent's commission.
- Check your credit score early. Your credit score significantly impacts your mortgage rate. Review your credit report and correct any errors with the credit bureau. While you're saving, take steps to improve your score, if necessary.
- Budget for all associated costs beyond the purchase price, including inspections, insurance, moving expenses, and your agent's commission.
- Get pre-approved for a mortgage before you start touring homes. This process will provide a clear picture of what you can afford and show sellers that you are a serious buyer.
- Discuss different financing options with your loan originator, including potential down payment assistance programs.

2. Educate Yourself

- Utilize online resources, watch videos from reputable influencers, and attend workshops on the mortgage and home buying process. Organizations like [HUD](#) and [NAR](#) offer valuable information.
- Familiarize yourself with different mortgage types. In addition to those highlighted above, consider fixed-rate and adjustable-rate loans and down payment assistance resources, to determine which best suits your financial situation best.

3. Set Realistic Goals

- Make a list of must-haves and nice-to-haves in a home. Be clear on the monthly mortgage payment you can afford without stretching your budget too thin.
- Research neighborhoods before you connect with a real estate agent. Look for areas that meet your needs regarding schools, commute, amenities, and safety.

4. Stay Organized

- Keep all financial documents, pre-approval letters, and correspondence organized. Use digital tools or a dedicated binder for easy access.
- Create a timeline for your homebuying journey. Determine how much you need to save per month to buy a home by a specific date, or when you can afford to buy if you can only save a specific amount from each paycheck. Then, add milestones like getting pre-approved, house hunting, making offers, the loan process and closing.

5. Partner with a Local Loan Originator

- Ask friends, family, neighbors and coworkers for referrals to local loan originators.
- Choose a loan originator with an 'education-first' approach, and discuss your timeline. Look for a professional willing to answer all your questions and support you for the months or years it will take for you to get financially prepared to qualify for a mortgage.
- Many forward-thinking loan originators offer homebuyers financial fitness tools like FinLocker. Ask your loan originator if they offer a FinLocker app to help you monitor your credit report, improve your credit score, budget, saving and provide comprehensive financial guidance and resources to prepare for homeownership.
- When it's time to finance your home purchase, obtain loan estimates from multiple lenders to compare rates, fees, and terms. If you think you've got a better rate, ask the local loan originator who has supported your homebuying journey to see if they can match the other rate.

6. Leverage Professional Help

- Choose a real estate agent who is experienced, communicates clearly, knows the neighborhood where you want to buy, and understands your needs. They can guide you through the contract and negotiation process.
- Given the complexity of the new contracts, a real estate attorney can provide unbiased legal advice and review documents to protect your interests.

7. Finalizing the Purchase

- Before closing, review all loan documents, title insurance, and the closing disclosure carefully. Ensure there are no unexpected charges or terms on any of the documents. If you have any concerns, discuss them with your loan originator.
- Conduct a final walkthrough of the property a day or two before closing day to ensure it is in the agreed-upon condition before signing the closing documents.

Following this advice and leveraging professional assistance, you can navigate the new complexities introduced by the NAR settlement with confidence. Preparation, education, and professional support are key to a successful home purchase, ensuring that your journey to homeownership is as smooth and informed as possible.

References:

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[*What buyer's agents are being paid in your market*](#), HousingWire

[*The Typical Buyer's Agent Earns 2.55% in Commission, a Rate That Has Declined Since the NAR Settlement Was Announced in March*](#), Redfin

[*Written Buyer Agreements 101*](#), National Association of Realtors®

[*Homebuyers: Here's What the NAR Settlement Means for You*](#), National Association of Realtors®