



NAR Settlement and Georgia MLS FAQs



In March 2024, the National Association of REALTORS® (NAR) entered into a settlement agreement to resolve litigation related to broker commissions brought on behalf of home sellers. This agreement mandates that covered MLSs adopt and enforce new rules as outlined in the settlement terms.

What are the key terms of the agreement for Georgia MLS?

- **Compensation offers moved off MLS:** NAR has agreed to put in place a new rule prohibiting offers of compensation on an MLS. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. **Compensation fields will be removed from Georgia MLS platforms August 13, 2024.**
- **Written agreements for MLS Participants acting for buyers:** While NAR has been advocating for the use of written agreements for years, in this settlement it was agreed to require MLS Participants working with buyers to enter into written agreements with their buyers before touring a home. This change will go into effect August 17, 2024.

What MLS policies have changed? [NAR FAQ](#)

The policy changes, agreed to by NAR leadership, were reviewed and updated with the changes as outlined below:

- Eliminate and prohibit any requirement of offers of compensation on an MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
- Retain, and define, “cooperation” for MLS Participation.
- Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation on an MLS to buyer brokers or other buyer representatives.
- Require an MLS to eliminate all broker compensation fields and compensation information on an MLS. **This will be in effect August 13, 2024 for Georgia MLS.**
- Require an MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator’s website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.
- Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with an MLS terminating the Participant’s access to any MLS data and data feeds.
- Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
- Require compensation disclosures to sellers, and prospective sellers and buyers.
- Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

What property types are offers of compensation prohibited on GAMLS?

All property types including Residential Sale, Residential Lease, Residential Income, Land, Commercial Lease, and Commercial.

Where on GAMLS are offers of compensation prohibited?

Offers of compensation are strictly prohibited, including but is not limited to, in Public Remarks, Private Remarks, Office Remarks, Directions, Documents, Photos, GAMLS websites bio and additional pages, Georgia MLS public website, ShowingTime, Seller's Contribution to Closing, and Concessions.

Can I post a link on GAMLS that provides offers of compensation?

No. Any link to a page with offers of compensation, including but is not limited to, Georgia MLS public website, GAMLS agent/office websites, connectMLS, or any dual entry platform for GAMLS, that provides offers of compensation are strictly prohibited.

Can I post GAR Forms, RE Forms, or any document with reference to offers of compensation in the Documents?

No. Forms or documents discussing compensation cannot be included on a listing. This includes but is not limited to F258 (Pre-Showing Compensation Agreement), F259 (Broker Compensations Agreement Exhibit), F255 (Instructions to Closing Attorney), F301 (Seller Property Disclosure Statement), F101 (Exclusive Seller Brokerage Engagement Agreement), and F110 (Exclusive Buyer Brokerage Engagement Agreement).

Where can listing brokers advertise an offer of compensation?

Listing brokers may advertise an offer of compensation off-MLS, where MLS/IDX is not used to facilitate or support any mechanism to offer compensation on their website, signs and sign riders, flyers, social media posts, text, email, or phone calls. For example, a Facebook post can advertise the offer of compensation, but there must be no reference to GAMLS or the GAMLS listing number on the Facebook post.

Will there be enforcement of Compliance regarding the offer of compensation?

Yes. Compliance violations will be generated for non-compliance of the NAR settlement for offers of compensation in Georgia MLS. Initially, there will be a one-time \$25 fine issued with the removal of the offer of compensation. There will be an increase of the fine for each incident of the violation.

Are there any Pre-Sale Concession Fields available in GAMLS?

No. At this time, there will not be any pre-sale concession fields in Georgia MLS.

Written Listing Agreements

What additional provisions must be included in written listing agreements because of the practice changes?

The listing agreement must state conspicuously that broker commissions are not set by law and are fully negotiable. Conspicuously disclose to sellers and obtain seller approval for any payment or offer of payment that a listing broker will make to another broker or other representative (e.g., real estate attorney) acting for buyers, and specify the amount or rate of such payment.

Must a REALTOR® or MLS Participant acting for a seller obtain prior approval from the seller before an offer of compensation is made or compensation is paid to another broker, agent, or other representative acting for a buyer?

- The practice changes require that a REALTOR® or MLS Participant acting for sellers to conspicuously disclose to sellers and obtain seller approval for any payment or offer of payment that a listing broker will make to another broker, agent, or other representative acting for buyers.
- The disclosure must be made to the seller in writing in advance of any payment or agreement to pay another broker, agent, or other representative acting for buyers and must specify the amount or rate of such payment.

Should active listing or buyer agreements—meaning there is no accepted offer—entered into before the MLS policy changes go into effect on August 17, 2024 be amended to include a conspicuous disclosure that compensation is not set by law and is fully negotiable?

GAMLS Participants must make this disclosure. Active agreements can either be amended or a separate disclosure can be provided to satisfy the requirement.

Should active listing agreements entered into before the MLS policy changes go into effect on August 17, 2024 be amended to address the settlement agreement's prohibition on offers of compensation being communicated on an MLS?

- If the listing agreement instructs the listing broker to make an offer of compensation without reference to an MLS, no change to the listing agreement is needed, as the listing broker can comply with that instruction without violating the MLS policy change.
- But if the listing agreement specifies that offers of compensation be made on an MLS then the listing broker should work with the seller to amend the listing agreement before the MLS policy change is implemented, to make it clear the listing broker will not make an offer of compensation on an MLS and to determine whether the seller instructs the listing broker to make an offer of compensation outside of an MLS.

Written Buyer Agreements

What are the required terms for written agreements for MLS Participants acting for buyers?

- A specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
- The amount of compensation in a manner that is objectively ascertainable and not open-ended.
- A term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount of rate agreed to in the agreement with the buyer.
- A conspicuous statement that broker fees and commission are not set by law and fully negotiable.

What property types are required to have a written agreement for MLS Participants acting for buyers?

Residential Sale is the only property type required to have a written agreement for MLS participants acting for buyers. Georgia MLS will be removing compensation fields for all property types.

What are the two triggers for a written agreement for MLS Participants acting for buyers?

Working with a buyer and touring a home.

When is a written buyer agreement required prior to a buyer touring a home?

A written buyer agreement is required prior to a buyer "touring a home." An MLS Participant "working with" a buyer can enter into the written buyer agreement at any point but must do so by no later than prior to the buyer "touring a home," unless state law requires a buyer agreement earlier in time (see FAQ "What does it mean to touring a home?")

What does it mean "working with a buyer?"

MLS Participants who provide brokerage services to a buyer –

- Identifying potential properties
- Arranging for the buyer to tour a property
- Negotiating on behalf of the buyer
- Writing and presenting offer

As opposed to MLS Participants who simply market their services or just talk to a buyer – like at an open house or providing an unrepresented buyer access to one of their listed homes.

Georgia MLS FAQs



[NAR Settlement Guidelines](#)

[NAR's Facts for REALTORS®](#)

[Georgia MLS FAQs](#)

[NAR's FAQs](#)

What does it mean "touring a home?"

- When the buyer and/or the MLS Participant (or other agent, at the direction of the MLS Participant working with the buyer) physically enter the home
- Includes when the MLS Participant or other agent, at the direction of the MLS Participant, working with the buyer enters the home to provide a live, virtual tour to a buyer not physically present.
- A "home" means a residential property consisting of not less than one nor more than four residential dwelling units.

If an MLS Participant hosts an open house or provides access to a property on behalf of the seller to an unrepresented buyer, will they be required to enter into a written agreement with those buyers touring the home?

No. In this case, since the MLS Participant is only working for the seller, and not the buyer, the MLS Participant does not need to enter into a written agreement with the buyer.

What types of written agreements can be used for MLS Participants acting for buyers?

The form must comply with state law. Exclusive buyer representation agreement, transactional, limited service, designated agency, dual agency are some examples.

Will GAMLs be required to get a copy of the written buyer agreement?

No, GAMLs is not required to receive a copy of the written buyer agreement but can request it as a matter of enforcement.