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South Carolina  
Department of Labor, Licensing and Regulation

Real Estate Commission



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## Commission Guidance

### Recent Settlement and South Carolina Law

#### Settlement and Inquiries

In August of 2024, a settlement agreement involving the National Association of Realtors, among other defendants, went into effect.<sup>1</sup>

As a result of this settlement, the South Carolina Real Estate Commission (“Commission”) has received numerous inquiries from both licensees and consumers regarding a requirement that consumers must enter into a written agreement before viewing a residential property with a real estate licensee.

In response to the aforementioned inquiries and after reviewing the settlement agreement, including Paragraph 58, subsection (vi)’s requirements, the Commission takes this opportunity to remind South Carolina licensees that pursuant to S.C. Code Ann. § 40-57-370(A), at the first practical opportunity, they must provide the following to all potential buyers and sellers with whom they have substantive contact:

- (1) a meaningful explanation of brokerage relationships in real estate transactions that are offered by that real estate brokerage firm, including an explanation of customer and client services; and
- (2) the Commission-prescribed “Disclosure of Brokerage Relationships” form (Revised 9/24).<sup>2</sup>

“Substantive contact” is defined as “contact in which a discussion or dialogue between the consumer and the supervised licensee or broker-in-charge moves from casual introductory talk to a meaningful conversation regarding the selling or buying motives or objectives of the seller or buyer, financial qualifications, and other confidential information that if disclosed could harm the consumer’s bargaining position.” S.C. Code Ann. § 40-57-30(38) (2024).

Importantly, it is the Commission’s position that “substantive contact” occurs when a licensee shows a property to a buyer. As such, the “Disclosure of Brokerage Relationships” form (Revised 9/24) must be provided prior to showing any property.

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<sup>1</sup> Full text of the settlement agreement can be found [here](#).

<sup>2</sup> A copy of this form is available [here](#).

## **Conclusion**

The Commission is committed to maintaining compliance with both federal and state regulations while ensuring fair practices in real estate transactions to protect the public's interest when involved in real estate transactions. While, Paragraph 58, subsection (vi) of the settlement agreement requires that, unless inconsistent with state or federal law or regulation, all REALTOR® MLS Participants working with a buyer enter into a written agreement before the buyer tours any home, it is the Commission's opinion that not only REALTOR® MLS Participants but all South Carolina licensees must provide the Commission-mandated "Disclosure of Brokerage Relationships" form (Revised 9/24) prior to showing any property.

Licensees are advised that they may wish to seek advice from their legal counsel regarding the implementation of this guidance.