South Carolina
Department of Labor, Licensing and Regulation

Real Estate Commission

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August 13, 2026

Seller-Directed Limited Residential Market Exposure Guidance

Purpose

South Carolina law permits a seller to determine how the seller's property will be marketed. One available option is a **Limited Market Exposure Listing**, sometimes referred to as an "Office Exclusive", "Private Listing", "Pocket Listing", or "Off-MLS Listing", in which the seller elects to limit the public marketing of the property.

This guidance is intended to assist South Carolina real estate licensees in understanding:

- ✓ **The seller's right to choose a marketing strategy;**
- ✓ **The broker's fiduciary duties to the seller;**
- ✓ **The importance of transparency and meaningful informed consent;**
- ✓ **Fair housing considerations associated with limited market exposure; and**
- ✓ **Recommended disclosures and documentation.**

This guidance does not prohibit limited market exposure listings. Rather, it reminds licensees of their existing duties under the South Carolina Real Estate License Law when recommending or facilitating these marketing strategies.

However, South Carolina's real estate licensing laws and federal and state fair housing laws reflect strong public policy favoring open, competitive, and nondiscriminatory housing markets. Broad marketing for residential property generally promotes these objectives by exposing properties to the greatest number of qualified purchasers, encouraging competition, increasing transparency, and reducing opportunities for unlawful steering or discrimination.

Accordingly, the Commission believes that broad public marketing for residential property will ordinarily be more consistent with both a seller's stated goals and the public policy favoring equal housing opportunity unless the seller's particular circumstances **reasonably warrant** a more limited marketing strategy.

A licensee recommending a limited market exposure listing bears the responsibility of demonstrating that the recommendation was made in the seller's best interests and not primarily to advance the interests of the brokerage or its affiliated licensees.

LIMITED MARKET EXPOSURE LISTING OPTION

A Limited Market Exposure Listing allows a seller to limit the public marketing of the seller's property.

The decision to utilize a Limited Market Exposure Listing belongs solely to the seller.

The broker's responsibility is to:

- ✓ **Explain all available marketing options;**
- ✓ **Discuss how each option serves the seller's stated objectives;**
- ✓ **Explain the advantages and disadvantages of limiting market exposure;**
- ✓ **Disclose any known conflicts of interest;**
- ✓ **Consider applicable fair housing obligations; and**
- ✓ **Obtain the seller's informed written consent before limiting public marketing.**

A broker should recommend a Limited Market Exposure Listing only when the broker reasonably believes the recommendation serves the seller's lawful objectives and best interests.

BROKER'S ROLE AND RESPONSIBILITIES

Real estate licensees are fiduciaries. Under South Carolina law, a broker must promote the interests of the seller above the interests of the broker, the brokerage, or any other person.

Before recommending or implementing a Limited Market Exposure Listing, the broker should:

1. Explain All Marketing Options

Discuss the available marketing strategies and explain how each option may affect market exposure, buyer competition, timing, and the seller's stated objectives.

2. Promote the Seller's Best Interests

Ensure the recommendation is based upon the seller's interests—not the financial or competitive interests of the brokerage or its affiliated licensees.

3. Provide Meaningful Disclosure

Explain the reasonably foreseeable advantages and disadvantages of limiting market exposure in language the seller can understand.

4. Identify Potential Conflicts

Disclose any actual or potential conflicts of interest, including circumstances where the brokerage or one of its affiliated licensees may also represent a prospective purchaser or otherwise benefit from the chosen marketing strategy.

5. Consider Fair Housing Obligations

Evaluate whether the proposed marketing strategy could unnecessarily limit housing opportunities or create fair housing concerns.

6. Obtain Written Informed Consent

Before signing a Limited Market Exposure Listing, obtain the seller's written acknowledgment confirming the seller understands the marketing strategy and voluntarily directs the brokerage to proceed.

REQUIRED SELLER DISCLOSURES

The Commission recommends obtaining a written disclosure confirming that the seller understands and acknowledges the following:

- ✓ **The seller has voluntarily chosen a Limited Market Exposure Listing.**
- ✓ **The seller understands the available marketing alternatives.**
- ✓ **The seller understands that limiting public marketing may reduce the number of prospective buyers who become aware of the property.**
- ✓ **Reduced buyer exposure may reduce buyer competition and may negatively affect the sales price, terms, or time required to sell the property.**
- ✓ **The broker has explained both the advantages and disadvantages of limiting market exposure.**
- ✓ **The broker has disclosed any known conflicts of interest.**
- ✓ **The seller has had the opportunity to ask questions before making a final decision.**
- ✓ **The seller voluntarily directs the brokerage to proceed with the selected marketing strategy.**

A seller's signature should reflect more than receipt of a form. It should demonstrate that the seller received sufficient information to make an informed decision.

BROKER COMPLIANCE CHECK

Before recommending or implementing a Limited Market Exposure Listing, licensees should ask:

- ✓ **Is this marketing strategy consistent with the seller's stated objectives?**
- ✓ **Have I explained all reasonable marketing alternatives?**
- ✓ **Have I fully disclosed the foreseeable advantages and disadvantages?**
- ✓ **Have I disclosed all actual or potential conflicts of interest?**
- ✓ **Have I considered applicable fair housing obligations?**
- ✓ **Has the seller made an informed and voluntary decision?**
- ✓ **Have I adequately documented the seller's instructions and my disclosures?**

If the answer to any of these questions is **"No,"** the broker should address the issue before proceeding.

COMMISSION GUIDANCE

The Commission recognizes that Limited Market Exposure Listings may appropriately serve certain sellers whose individual circumstances justify limiting public marketing. **As a general matter, however, the Commission believes limited market exposure listings should be the exception rather than the ordinary course of marketing residential real estate.**

The decision to limit market exposure belongs to the seller. The responsibility for ensuring that decision is informed, lawful, and consistent with the seller's best interests belongs to the broker.

Accordingly, the Commission encourages licensees to approach Limited Market Exposure Listings with transparency, thoughtful professional judgment, and careful adherence to their fiduciary duties and not as part of a brokerage's business strategy.

Sellers should receive sufficient information to make an informed decision, including a balanced explanation of the potential advantages, disadvantages, and available alternatives.

The Commission further encourages brokers to maintain documentation demonstrating that the seller's decision was voluntary, informed, and supported by appropriate disclosures.

Nothing in this guidance creates new legal duties or prohibits the use of Limited Market Exposure Listings. Rather, it reflects the Commission's expectation that licensees recommending or facilitating these listings will continue to fulfill the fiduciary duties, disclosure obligations, and fair housing responsibilities imposed by existing South Carolina law.

Licensees recommending a limited market exposure strategy should be prepared to demonstrate that the recommendation served the seller's best interests, complied with applicable law, and was supported by appropriate disclosures and documentation.

Disclaimer: This guidance is intended to educate South Carolina real estate licensees regarding existing legal duties and professional responsibilities. It does not create new legal obligations, constitute legal advice, or replace the exercise of professional judgment in any particular transaction.