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# NAR Rule Changes and Their Impact on Sellers

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The real estate industry is experiencing significant changes following the implementation of new National Association of Realtors (NAR) rules, effective August 17, 2024. These changes, prompted by a federal court ruling in October 2023, aim to increase transparency and fairness in real estate transactions. While the impact on sellers may be less direct than on buyers, these changes introduce important considerations for those looking to sell property.

**Key Changes Affecting Sellers**

1. **Changes in Commission Structures**
   The new rules have substantially altered how commissions are structured and paid, presenting both opportunities and challenges for sellers:

   **Lower Seller Commission Liability**: One of the most significant changes is that sellers are no longer responsible for compensating both their own broker and the buyer's broker. This shift potentially reduces the overall transaction costs for sellers, allowing for more flexibility in pricing strategies.

   **Flexibility in Setting Commissions**: With the unbundling of commission structures, sellers now have more room to negotiate commission rates with their brokers. Expert suggestions now lean towards rates around 2.5%, a notable decrease from the traditional 6% split between buyer and seller brokers. This change allows sellers to potentially retain more of their sale proceeds, but it also requires more active engagement in commission negotiations.
2. **Removal of Compensation Information from MLS Listings**
   The removal of broker compensation information from NAR-affiliated Multiple Listing Services (MLS) introduces a new dynamic in how properties are marketed and how buyers approach listings:

   **Increased Direct Negotiation**: Without visible compensation information on MLS listings, sellers and their brokers may experience an

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increase in direct inquiries and negotiations from potential buyers and their brokers. This change could lead to more dynamic and individualized negotiation processes for each transaction.

**Potential Impact on Property Marketability**: The absence of upfront commission information might affect how buyers and their brokers approach listings. Sellers may need to consider new strategies to make their properties stand out in this changed landscape.

**Key Considerations for Sellers**

In light of these changes, sellers should approach the selling process with new strategies and awareness:

1. **Crafting Effective Seller-Broker Agreements (SBAs)**: When entering into a SBA, sellers should pay particular attention to several key elements. The scope of representation should be clearly outlined, detailing the broker's responsibilities and specifying who receives commission upon sale. This is especially important given the potential for multiple brokers to be involved in a transaction. Commission rates should be carefully negotiated with the broker. Sellers should be prepared to discuss rates, keeping in mind the new market dynamics and expert suggestions. It's also crucial to review the agreement for any pre-set commission percentages, especially in sections with blank spaces that could be filled in later.
2. **Addressing Buyer's Broker Fees**: While sellers are no longer required to pay buyer's broker fees, this change introduces new considerations in terms of property marketability. Sellers might consider whether offering to cover the buyer's broker fees could make their listing more attractive, given that buyers now face out-of-pocket expenses for their broker's commission. If sellers choose to offer coverage of buyer's broker fees, they should ensure their SBA requires their consent before their broker makes such an offer. This maintains the seller's control over potential additional costs. Additionally, sellers should consider how their SBA handles cases where a buyer is unrepresented by a broker, as this could affect the overall commission structure of the sale.
3. **Strategic Use of MLS Listings**: Sellers should ensure their SBA allows them to decide whether their property is listed on an MLS. While MLS listings remain a powerful tool for reaching potential buyers, the changed information landscape may require new approaches to make listings stand out. Sellers should be prepared for increased questions and negotiations from potential buyers and their brokers, as compensation information is no longer visible on MLS listings. This may require a more hands-on approach to the selling process and closer collaboration with their broker.
4. **Understanding Agreement Duration**: Sellers should be fully aware of the explicit term of their SBA, which typically covers the listing period for their property. However, it's equally important to be aware of any clauses that might extend the term of the agreement with a broker beyond the stated end date, potentially up to 180 days. These extensions could have significant implications for sellers, especially if they're considering relisting with a different broker or pursuing alternative selling strategies. We note that this concept is already a part of the typical SBA, but given the new rules landscape, all terms should be considered.

**Conclusion**

The NAR rule changes offer sellers new opportunities for flexibility in structuring their broker relationships and potential cost savings. However, they also introduce new dynamics in how properties are marketed and how buyers approach listings. By understanding these changes and their implications, sellers can better position themselves to navigate the new landscape successfully.

Our team is available to provide guidance tailored to individual situations and to help sellers successfully maneuver through this evolving real estate environment.

Related article: NAR Rule Changes and Their Impact on Buyers