



To: Members of the Senate Commerce Committee

Re: A-373 – Commission rebates to buyers and why they are important

Dear Senators:

On behalf of the New Jersey consumers whom Consumer Advocates in American Real Estate represents, we would like to inform you why it is important to allow commissions to be shared with parties to the residential real estate transaction. At the heart of this matter is the consumer's right to negotiate their broker's fee.

Currently there exists a misalignment of the real estate brokers' duties to their buyers and the way that the brokers get paid. Brokers working with buyers almost always receive their compensation as the result of a commission split with brokers working with sellers. As a result, when buyers hire an agent to represent them, they are incapable of negotiating the most important part of the contract – how much they are going to pay their agent. This creates the potential for many forms of abuse, not to mention the anticompetitive effect of destroying innovative business concepts in the half of the real estate industry which works with buyers.

Consider the buyer broker's dilemma when searching through the Multiple Listing Service on behalf of a buyer and when that broker is confronted with varying compensation offerings from sellers' brokers. Commission (often called co-op) splits might be anywhere from 2.5% - 10% depending on the type of property and the seller's motivation. In fact, some seller's brokers even offer bonuses to buyer brokers in addition to the normal split that can be as high as \$10,000. The result is that the buyer broker is incentivized to advise buyers to purchase homes that pay a higher commission split. The pay is not aligned with the broker's duties to their buyer.

By allowing the broker to share their compensation with buyers, it creates a situation where the buyer broker's fee can actually be negotiated up front and any extra compensation could go to the buyer. Under this scenario if the buyer negotiated a 3% commission with their broker, it would remain 3% no matter how much extra the seller's broker offers through the MLS. Any extra would be rebated to the buyer. So the buyer would benefit from any seller incentives, not their broker. The result would be an alignment of the buyer's interests with the broker's fee.

We hope our comments help clarify the importance of this matter. Thank you.

Sincerely,

Douglas R. Miller
Executive Director