



Tuolumne County Association of REALTORS®
“The Voice of Real Estate for Tuolumne County”
14195 Tuolumne Road
Sonora, California 95370
Phone: 209.532.3432 Fax: 209.533.9418



Tuolumne County Association of REALTORS®

Broker Compliance Policy

The Tuolumne County Association of REALTORS® designates the Association Executive in charge of checking the California Association of REALTORS® broker compliance tool daily.

The Association Executive will notify the employing broker when an agent/salesperson (Non-Member Salesperson) appears on the broker compliance tool.

After seven days, should the Non-Member Salesperson still appear on the broker compliance tool, the Association Executive will invoice the employing broker for the Non-Member salesperson. The Non-Member salesperson invoice will be reversed should the Non-Member salesperson join the Association as a REALTOR® Member. The Non-Member salesperson invoice will be reversed should the employing broker remove the salesperson from under his/her license. The Non-Member salesperson invoice will be reversed should the Non-Member salesperson become a Limited Referral Agent (LFRO).

The Association Executive will report to the Board of Directors at the monthly board meeting the status of the broker compliance tool. The California Association of REALTORS® verifies the association Broker compliance tool three times throughout the year. Those hard deadlines for broker compliance are March, August, and December. The State will notice the Association Executive, President and President Elect of the associations broker compliance status. Compliance scores **MUST** be 97% or higher. **ALL** local AORs are required to maintain the 97% NMSP Score throughout the year.

The LFRO form needs the brokers signature on each corresponding signature line.

LFRO agents must sign the signature page when they join the LFRO program and each year thereafter. This will be their acknowledgement that they are referral only and that they are solely engaged in referring clients and customers and are not engaging in Real Estate as such would require the use of their license.

The LFRO form is due to the AOR annually by January 31st with all necessary signatures from both LFRO Agents and the Responsible Broker.

Included with this document is the FAQ for brokers on the variable dues (C.A.R. & NAR), sample broker letter, sample MLO certification form, sample LFRO certification form.



Variable Dues Formula

Corporate Legal Services

Tel (213) 739-8215

Fax (213) 480-7724

Jan. 26, 2016 (revised)

Introduction

At the 1972 Annual Convention, the National Association of REALTORS® Delegate Body approved what is now commonly referred to as the “NAR Variable Dues Formula” for Designated REALTORS®. The formula was crafted to ensure fairness, by basing member dues on the number of individuals licensed with REALTOR® principals (known as “Designated REALTORS®” or “DRs”). The premise is that every licensee in the firm benefits from the DR’s membership in the Association of REALTORS®, and, therefore, the DR’s dues should reflect all licensees in the firm – even those who are not REALTORS®.

This Legal Q&A addresses the questions that are frequently asked by DRs when they receive their annual dues billing from their local association.

Q 1. *Who is included in the dues formula?*

A All individuals licensed directly or indirectly with a DR are included in the computation. An offsetting credit is given to the DR based on the number of non-principal licensees who hold REALTOR®, REALTOR-ASSOCIATE®, or Institute Affiliate membership in their own right.

Q 2. *Who is licensed with a DR for dues purposes*

A A licensee is deemed “licensed with” a DR, if the license of the individual is held by the DR or by any broker who is licensed with the DR or by any entity in which the DR has a direct or indirect ownership interest. An example

of an indirect ownership interest in an entity would be where the DR is working under a corporate license, but the licensees' licenses are actually held by the corporate entity.

Q 3. *Who pays the dues under the NAR variable dues formula?*

A The DR is the person responsible for paying the dues to the local association.

Q 4. *Is there an exception to the NAR Variable Dues Formula?*

A Yes. There are two (2) exceptions to the formula: (1) for non-REALTOR® licensees working in a referral company ("LFRO") and (2) for non-REALTOR® licensees who are engaged, only, in providing services for which a mortgage loan originator ("MLO") endorsement is required and who have an MLO endorsement on their license.

Q 5. *What are the requirements for the LFRO exception to apply?*

A In order for the LFRO exception to apply, the DR must certify, in a written statement, that the LFRO agents are (1) working for a separate entity and (2) are engaged in referrals only. If a DR certifies that agents are working for a LFRO, then those agents are not included in the dues formula calculation.

Q 6. *What kind of "separate entity" must a broker have in order to have a LFRO?*

A In California, it is sufficient for a broker to set up a DBA for the LFRO. Of course, if the broker wishes to use a separate corporation for the LFRO agents, that is acceptable, as well, but not necessary

Q 7. *What are the requirements for the MLO exception to apply?*

A In order for the MLO exception to apply, the DR must certify, in a written statement, that the MLO agents are (1) working for an entity in which the DR has an ownership interest; (2) are engaged, only, in providing services for which an MLO endorsement is required; and (3) are not participants or

subscribers in any MLS. If the DR certifies that agents are MLOs and meet the requirements for the MLO exception, then those agents are not included in the dues formula calculation.

Q 8. *Is a “separate entity” required in order to qualify for the MLO exception?*

A No. Unlike the LFRO exception, a separate entity is not required for the MLO exception. MLO agents can work side-by-side with non-MLO agents, in the same entity.

Q 9. *Can a LFRO or MLO belong to an MLS and still retain their exempt status?*

A If the individual is a participant or subscriber in an MLS, they automatically lose their exempt status. However, if they are a clerical user, as defined by the MLS, they retain their exempt status. In short, a LFRO or MLO can be a clerical user, but can not be a participant or subscriber.

Q 10. *Are property managers exempt from the formula?*

A No. Only LFROs and MLOs are exempt from the formula.

Q 11. *Are licensed assistants who work for the DR exempt from the formula?*

A No. The only exceptions to the variable dues formula are for agents who are LFROs and qualified MLOs. Therefore, a non-REALTOR® licensee who acts as an assistant in the DR's firm is counted for purposes of the formula.

Q 12. *Are licensed assistants who work for a broker-associate in the DR's firm exempt from the formula?*

A No. The only exceptions to the NAR Variable Dues Formula are for agents who are LFROs and qualified MLOs. Therefore, a non-REALTOR® licensee who is an assistant to a broker-associate in the DR's firm is counted for purposes of the dues formula.

Q 132. *What if the DR or the Broker for whom the DR works has two or more separate corporations, does the dues formula apply to the licensees in all corporations?*

A If a REALTOR® is a “principal” in more than one corporation or firm, the REALTOR® principal is responsible for all licensees, in all entities, under the dues formula.

Q 14. *What if the DR is working under their own individual license, but he or she is a principal in a corporation under which the non-REALTOR® licensees hang their licenses?*

A If a REALTOR® is a “principal” in the corporation, the REALTOR® principal is responsible for all licensees in all entities, under the dues formula.

Q 15. *What is the definition of a “principal?”*

A Under NAR policy, “principals” include sole proprietors, partners in partnerships, officers and majority shareholders in corporations, and office and branch managers acting on behalf of a principal(s).

Q 16. *When a DR pays for non-REALTOR® licensees under the NAR Variable Dues Formula, do those licensees become members of the local AOR, i.e. REALTORS®?*

A No. The DR is not paying “dues” for the licensees. Rather, the DR pays his/her own dues as computed on the number of individuals licensed with him/her, but who are not REALTORS®.

Q 17. *Can an Association require licensees to become REALTORS®?*

A No. If a broker wishes to require his or her licensees to become REALTORS®, that is a business decision for the broker, but no Association of REALTORS® can force a licensee to become a REALTOR®. In addition, the AOR cannot require the DR to force his or her licensees to become REALTORS®.

Q 18. *What happens if a DR refuses to pay dues according to the NAR Variable Dues Formula?*

A Full payment of dues owed is required for membership in a local AOR. Even partial payment does not satisfy the dues obligation. If a DR refuses to pay his or her full dues using the NAR Variable Dues Formula, the DR along with his or her entire office will be suspended from the local AOR membership, which, also, cuts off C.A.R. and NAR membership.

Q 18. *If a DR is not happy with the dues invoice from my local AOR, canhe/she join another AOR and avoid the dues formula?*

A No. All Associations of REALTORS® in California enforce the dues formula equally.

Q 20. *Where can I obtain additional information?*

A C.A.R. members requiring specific advice should consult their local AOR. The C.A.R. Legal Hotline attorneys will not advise members on the NAR Variable Dues Formula in a manner that may conflict with the position of the local AOR.

The information contained herein is believed accurate as of January 26, 2016. It is intended to provide general answers to general questions and is not intended as a substitute for individual legal advice. Advice in specific situations may differ depending upon a wide variety of factors. Therefore, readers with specific legal questions should seek the advice of an attorney. Revised by Susie Kater, Esq.

Copyright© 2016 CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.)
Permission is granted to C.A.R. members to reprint this material in hardcopy or PDF format only for personal use or with individual clients. This material may not be used or reproduced for commercial purposes. Other reproduction or use is strictly prohibited without the express written permission of the C.A.R. Legal Department. All rights reserved.



CALIFORNIA ASSOCIATION OF REALTORS®

Dear (Broker's Name):

In accordance with the CALIFORNIA ASSOCIATION OF REALTORS® and the National Association of REALTORS® bylaws, your dues obligation as “designated” REALTOR® of your firm is based on the number of individuals licensed with your firm. However, your dues obligation is fully credited with respect to any individual licensed with you who holds membership in an Association of REALTORS®. Consequently, the variable portion of your dues as the “designated” REALTOR® is computed based on the number of individuals licensed with you who do not hold membership with C.A.R. and NAR.

Your non-member dues obligation for the licensee(s) below is \$(). The non-member fee is calculated based on the count of non-member licensees multiplied by the C.A.R. non-member fee of \$184 and NAR non-member fee of \$150.

Non-Member Licensees

(Licensee Name: License Number)

If a designated REALTOR® refuses to pay his or her full dues using the variable dues formula (Count of Non-members x Non-member fees), the DR along with his or her entire office will be suspended from the local AOR membership, which, also, cuts off C.A.R. and NAR membership.

The Variable Dues Formula is policy that was established by the **National Association of REALTORS®** and dates back to 1972. In 1978, NAR revised its bylaws to require the payment of dues by member associations in accordance with a formula based on the number of REALTOR® members of an association and the number of individuals licensed with REALTOR® members of the association who are not themselves REALTOR® members. The local AOR is responsible for the enforcement of this policy.

Licensees affiliated with a separate entity owned by the “designated” REALTOR® which is exclusively engaged in soliciting and/or referring clients and customers to the REALTOR for compensation on a substantially exclusive basis are excluded from the variable dues obligation of the “designated” REALTOR®. The enclosed LFRO Certification Form may be used to identify such licensees who are referral agents only. The LFRO certification form should be sent via email to **(Local Association Name)**.

If you have any questions or concerns, please don't hesitate to contact (Local Association Name).

Thank you.

_____ Association of REALTORS®
Limited Function Referral Office (LFRO) Certification Form

To Designated REALTORS®: Please complete the following and return to the association office no later than _____. A new form must be completed each year.

In accordance with Article _____, Section _____, of the association's bylaws, this will certify that the undersigned Designated REALTOR® (or his firm) has a direct or indirect ownership interest in an entity engaged exclusively in soliciting and/or referring clients and customers to the REALTOR® for consideration on a substantially exclusive basis and are not participants or subscribers in any Multiple Listing Service ("MLS").

This will also certify that all of the licensees affiliated with that entity (list provided below) are solely engaged in referring clients and customers and are not engaged in listing, selling, leasing, renting, managing, counseling, appraising, or arranging financing for real property and are not participants or subscribers in any MLS.

(Please include agent's name and license#)

The exemption for any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities (listing, selling, leasing, renting, managing, counseling, appraising, or arranging financing for real property) other than referrals or upon their joining an MLS, **and dues for the current fiscal year shall be payable.**

Certified by _____ Date _____
(Designated REALTOR®) (print or type name)

Signature of Designated REALTOR® _____
(or appointed designee)

Name of Brokerage _____

Name of LFRO Entity _____

Phone _____ Email _____

_____ Association of REALTORS®

Mortgage Loan Originator (MLO) Certification Form

To Designated REALTORS®: Please complete the following and return to the association office no later than _____.

In accordance with Article ____, Section ____, of the association's bylaws, this will certify that the undersigned Designated REALTOR® (or his firm) has a direct or indirect ownership interest in an entity engaged in the real estate business which provides services for which a Mortgage Loan Originators license endorsement (MLO) is required. You must provide a list of the affiliated MLO licensees and certify that all of the listed licensees (1) have an MLO license or endorsement, (2) are not engaged in real estate licensed activities except those for which an MLO is required, and (3) are not participants or subscribers in any Multiple Listing Service ("MLS").

This will also certify that I have an ownership interest in the entity named below, which provides services for which an MLO license endorsement is required and that all of the licensees on the list provided below (1) have an MLO license or endorsement, (2) are not engaged in real estate licensed activities except those for which an MLO is required, and (3) are not participants or subscribers in any MLS. (Please include agent's name and license #)

The dues exemption for any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities other than those activities for which an MLO license or endorsement is required or upon their joining an MLS, and dues for the current fiscal year shall be payable.

Certified by (Designated REALTOR®) _____ Date _____
(print or type name)

Signature of Designated REALTOR® (or appointed designee) _____

Name of firm _____

Phone _____

Fax _____

E-mail address _____



Home

Association Executives

Manage Your Association

"Going by the Book": What Every REALTOR® Should Know About the REALTOR® Dues Formula

EDITOR'S NOTE: This article has been prepared at the request of the NATIONAL ASSOCIATION OF REALTORS® by its General Counsel, William D. North.

In November 1972, the NATIONAL ASSOCIATION OF REALTORS® amended its Bylaws to establish a combination dues structure. This dues structure or formula consisted of two parts:

First, a flat annual rate of \$30.00; plus

Second, a variable annual rate equal to \$12.00 times the number of salespersons employed by the REALTOR® or affiliated with him as independent contractors provided such salespersons are not themselves REALTORS® or REALTOR-ASSOCIATE® members of the National Association.

Since its adoption, the combination dues structure applicable to REALTORS® has been the subject of criticism by a small but highly vocal minority of members. While no dues increase can ever be expected to be universally popular, the criticisms of the REALTOR® combination dues structure have been of particular concern to the National Association for several important reasons:

First, the criticisms do not focus on the legitimate issues posed by any controversy over dues (i.e. amount, need, allocation among members); and

Second, in attacking the REALTOR®'s combination dues structure, the critics have irresponsibly charged that it jeopardizes the independent contractor status of salespersons(which is false), operates as a barrier to Board participation (which is false), and constitutes a form of mandatory membership (which is also false);

Third, these attacks have given great aid and comfort to those opponents of private property rights, in government and without, who want nothing more than to see the National Association, its state associations and its member boards denied the financial resources they require to function effectively.

At various times in the past, the National Association has attempted to clarify the fact that the REALTOR® dues structure not only does not jeopardize the independent contractor status of salespersons but affirmatively was designed to protect it. The National Association has also noted the fact that the REALTOR® dues structure was designed to minimize the barriers to Board participation by adjusting dues more closely to the REALTOR®'s office size. Finally, the National Association has stated repeatedly that the dues structure is not a form of mandatory membership and the over 100,000 salespersons affiliated with REALTORS® who are not REALTOR-ASSOCIATE®s are living proof en masse of the truth of such statement.

The one thing which the National Association has not done to clarify the REALTOR® combination dues structure is to explain in detail precisely how it was developed. The failure to make such explanation has perhaps created the false impression that the structure sprang full born as the arbitrary "brainstorm" of Association leadership.

In point of fact, however, no policy change initiated by the National Association, including even the 14 Point Multiple Listing Policy, was the product of more intensive study and analysis than was the REALTOR® combination dues structure. In developing its dues proposal for submission to the membership in 1972, the National Association went strictly "by the Book" the "Book" being Association Dues Structures: Theory and Practice, published by the American Society of Association Executives in 1969.¹

Over 1,500 associations were surveyed in the course of the study and over 200 associations were subjected to intensive interview and investigation. The Book is universally recognized by the leading commentators in trade association law and practice as the authoritative work on the subject of association dues.²

According to the "Book" a proper dues structure must meet certain requirements.

First, it must be flexible. This means that "the dues structure or rate can be fairly easily changed to adapt to the changing conditions within the association or the economy."³

Second, it must be equitable. This means that the dues structure must equate the "benefits received" by the member with his "ability to pay."⁴

Third, it must permit accurate reporting. This means that the basis of the dues structure must be subject to disclosure and verification.⁵

Fourth, it must not create any collateral legal problems for the association or its members.

It was with this criteria in mind that the National Association developed its combination dues structure.

1. Flexibility. The combination dues structure provide a system significantly more flexible than the flat rate structure previously in effect. The recognition of sales associates in the computation of REALTOR® dues provide a built in "growth factor" which tends to minimize the need for changes in the rate of dues to keep pace with inflation or expansion of services.

2. Equity. The combination dues structure provided a system significantly more equitable than the flat rate structure. Under the flat rate structure no real consideration was given to the benefits received by a REALTOR® organization or its ability to pay. Thus, the REALTOR® with a hundred salespersons in his organization paid the same dues as the REALTOR® with one salesperson, notwithstanding the fact that the true cost of serving the two organizations was significantly different and the benefits to the REALTOR® with the larger office were many times those received by the REALTOR® with the smaller office.

With the substantial expansion of the programs of the National Association in the area of legislative activity, legal action and member services which occurred in the early 1970's, the National Association was confronted with the choice of seeking a two hundred and fifty percent increase in the flat rate REALTOR® dues or adopting a combination dues structure which, at least in part, would equate dues to REALTOR® office size. In the interest of protecting REALTORS® having less than four employees or independent contractors affiliated with them and representing over seventy percent of the National Association's REALTOR® membership, the combination dues structure was adopted.

3. Accurate Reporting. Once the combination dues structure was elected, it became necessary "going by the Book," to find a "common denominator by which all . . . members could be more or less equally measured."⁶ Consistent with this objective the National Association

considered the various “common denominators” utilized by the other organizations; i.e. sales,⁷ units of production (listings),⁸ units of equipment of plans (offices or branches),⁹ payroll,¹⁰ assets,¹¹ and employees (sales employees and independent contractors).¹²

“Sales” was rejected as a common denominator primarily because REALTORS® are reluctant to reveal sales information and its use would have involved insurmountable and costly administrative problems for the Association.

“Listings” was rejected as a common denominator because of the wide disparity in the value, duration and salability of listings. Moreover, use of listings as a measure of dues would have discriminated against the brokerage function and in favor of the appraisal, management, and counseling functions which do not rely heavily on listing activities.

“Offices or branches” were rejected as the common denominator simply because the number of offices or branches is no necessary indicator of size or ability to pay. Thus, some REALTORS® have a hundred salesmen and brokers operating out of a single office while other REALTORS® may have a hundred salesmen and brokers operating twenty offices or branches.

“Payroll” was rejected as a common denominator for several reasons; problems of administration; problems of computation in an industry of independent contractor commission salesmen, and the lack of necessary payroll information.

“Assets” was rejected as a common denominator primarily because few REALTOR® organizations have any significant asset value apart from furniture and fixtures and a speculative “going concern value.” In any event, the asset value of a REALTOR® organization at any point in time is no measure of its size, profitability, or ability to pay.

The only one of the various common denominators cited “by the Book” which seemed an equitable and practicable dues base was “sales employees and independent contractors.” According “to the Book,” “dues structures based on the number of employees (independent contractors) or members are used by a variety of associations, but are probably most logically used in labor intensive industries and federations (associations whose members are other associations).”¹³ Real estate brokerage, appraisal, management, and counseling is one of the most labor intensive industries in existence.¹⁴

But the “common denominator” of sales employees and independent contractors had other characteristics which argued strongly for its adoption as the measure of REALTOR® dues;

First, information concerning the number of salespersons was more readily available and verifiable than other types of information (sales, assets, payroll) and hence was apt to produce greater accuracy with fewer problems of collection.

Second, utilization of sales employees and independent contractors would more fairly cause the dues paid by the REALTOR® to reflect the benefits conferred by the activities of the National Association, as well as the State Associations and Member Boards, since such activities inure to the benefit of salespersons as well as brokers, and

Third, utilization of sales employees and independent contractors would, more than any other common denominator, cause REALTORS® engaged in appraisals, management, and counseling to bear their fair share of the costs of the Association.

The one problem recognized in using sales employees and independent contractors as the common denominator, and one also recognized “by the Book,” was that all such employees and independent contractors did not have the same rate of productivity.¹⁵ Hence, the dues burden was bound to fall most heavily on the

REALTOR® having the least efficient and productive sales force. The National Association elected to proceed notwithstanding this problem for several reasons.

First, and foremost, there was no entirely satisfactory solution to it. Any effort to equate dues with salesperson productivity necessarily required the Association to resolve all of the problems encountered in a dues formula based on sales (reporting, verification, etc.) compounded by the number of sales employees and independent contractors.

Second, the amount of the dues payable by the REALTOR® in respect of each salesperson was deemed so nominal (\$12.00 per year) as to be reasonable even in the case of the most marginal salesperson.¹⁶

Third, the REALTOR® had it entirely within his power to minimize the dues burden by enhancing the efficiency and productivity of his organization.

4. Collateral Legal Problems. Certain collateral legal problems were critical considerations in the development of the REALTOR® combination dues structure.

The first problem involved the Association's concern with antitrust compliance. In January of 1972 the National Association had adopted its 14 Point Multiple Listing Policy and had commenced nationwide implementation of that Policy. As a result of several suits by the Department of Justice against Boards of REALTORS®, the National Association was particularly sensitive to any dues structure requiring the exchange or disclosure of information which might be used in anti-competitive ways. On the basis of careful and comprehensive research, it was concluded that the number of salespersons affiliated with a REALTOR® was not such information as could be used anti-competitively and hence provided a reasonable and legally safe basis for the assessment of dues.

The second problem involved the Association's traditional concern with the protection and preservation of the independent contractor relationship between broker and salesperson.

At the same time the dues structure was under consideration in 1972, the National Association leadership determined to recommend to the membership the acceptance of salesperson as REALTOR-ASSOCIATE® members of the National Association, its state associations and member boards. Having made this determination, it was necessary to determine the dues structure applicable to REALTOR-ASSOCIATES as well as that applicable to REALTORS®.

The dues structure of the REALTOR® having been established as \$30.00 plus an amount equal to \$12.00 times the number of salespersons employed by or affiliated with him, it became apparent that the REALTOR® organization whose salespersons were also REALTOR-ASSOCIATE®s would contribute more to the support of the National Association than the REALTOR® organization which was less dedicated. This result was perceived to be counterproductive and a serious potential source of member dissatisfaction.

Initially, it was suggested that this inequity could be readily cured if the dues paid by the REALTOR® were deemed to entitle any salesperson affiliated with him to REALTOR-ASSOCIATE® membership in the National Association. This solution was quickly abandoned, however, when it was pointed out that such an arrangement would probably be viewed by the Internal Revenue Service as payment of the salespersons membership dues and hence an act inconsistent with the independent contractor status of the salesperson.

The alternative solution adopted was to establish REALTOR-ASSOCIATE® dues as \$12.00 per year and exclude from the calculation of REALTOR® dues any salesperson who elected to

become a REALTOR-ASSOCIATE®. By this arrangement the independent contractor status remained unaffected and the salesperson retained the right to join or not join the National Association.

CONCLUSION

The REALTOR® and REALTOR-ASSOCIATE® dues structure was approved by over 75% of the members of the National Association. Few amendments to the Constitution and Bylaws of the National Association have received greater membership support. Few amendments have been the subject of more general and comprehensive discussion and debate prior to adoption.

The purpose of this review of the development of the REALTOR® - combination dues structure and the REALTOR-ASSOCIATE® dues structure is not intended as an apologia but rather as a reminder that:

The National Association is supported primarily by the dues it receives *from its members*;

The programs the National Association undertakes and the costs of those programs are determined *by its members*;

The dues structure of the National Association adopted in 1972 was specifically designed to ease the dues burden of REALTORS® having small offices and to better equate the dues obligation with the benefits received by its members based on the size of the member's office.

By every measure of "Theory and Practice," by every experience and example of other associations, and by every criteria perceived by the most skilled analysts of association dues structures, the National Association "went by the Book."

¹ American Society of Association Executives, Association Dues Structure: Theory and Practice, Washington, D.C. (1969)

² Webster, The Law of Associations, American Society of Association Executives (1971)

³ ASAE, Association Dues Structure: Theory and Practice 2 (1968)

⁴ Id at 4, 5

⁵ Id at 6, 7

⁶ Id at 5.

⁷ Id at 11-14.

⁸ Id at 15, 16.

⁹ Id at 16-17.

¹⁰ Id at 20-22.

¹¹ Id at 22.

¹² Id at 18-20.

¹³ Id at p. 18.

¹⁴ In this connection, the National Association followed the dues structure of an association of insurance agents cited in the Book which used as its dues base the number of licensees per office. The rationale cited by that Association (in a substantially analogous industry for using the licensee as the measure of dues liability was that the "licensee is the 'sales or production man factor in an insurance agency'

¹⁵ Id at 19.

¹⁶ The \$12.00 dues figure represents two-tenths of one percent (.2%) of the average cost incurred by a REALTOR® in respect of each sales employee and sales associate. According to a survey conducted in 1972 by the Department of Research of the NATIONAL ASSOCIATION OF REALTORS® in respect of the Costs of a Salesman's Desk, the average expense incurred by a REALTOR® in respect of each salesperson is \$6,000.00. Such expenses include advertising (\$1,200.00), operating expenses (\$1,100.00), support and clerical staff

(\$900.00), housing (\$700.00) and communications (\$400.00). The National Association of Real Estate Board's Department of Research, Cost of a Salesman's Desk, Washington, D.C. 1972.

Headquarters

430 N. Michigan Ave
Chicago, IL 60611-4087
800-874-6500

DC Office

500 New Jersey Avenue, NW
Washington, D.C. 20001-2020
202-383-1000

[Newsletters](#)

[Careers](#)

[Advertise](#)

[Reprints](#)

[Additional Resources for Members & the Public](#)

[Privacy Policy](#)

[Accessibility](#)

[Terms of Use](#)

[Translate](#) ▶



[Contact Us](#)



[1.800.874.6500](#)



[Live Chat](#)

Member Support is available Mon-Fri, 8am-5pm Central

[Follow Us](#)



[more](#)



**NATIONAL
ASSOCIATION OF
REALTORS®**

© 2021 National Association of REALTORS®. All Rights Reserved.

.realtor™ NAR's exclusive top-level domain.

[Home](#)[About NAR](#)[Policies](#)

Limited Function Referral Office (LFRO) Policy

December 2014 (Revised May 2019)

In 2002, a work group of the Finance Committee was formed at the direction of the NAR Treasurer to consider several issues and questions about NAR's dues collection policies. The work group recommended there be a waiver of dues for licensees in a referral organization owned and operated by a REALTOR® which is solely engaged in referring clients or customers to the REALTOR®'s brokerage company and which is NOT engaged in listing, selling, leasing, managing, or appraising real property.

This proposal was considered by the Finance, the Membership Policy & Board Jurisdiction, and the Association Executives Committees, and was endorsed by all three committees. The proposal was then considered and adopted by the NAR Board of Directors at the 2002 Annual Convention. Enabling amendments to the NAR Bylaws and to the Model Board Bylaws were approved at the 2003 Midyear Meetings. These amendments created a narrow exception to the long-standing

policy that REALTORS® (principals) are responsible under the dues formula for all licensees in all real estate firms in which the REALTOR® is a principal.

The current policy exempts from the Designated REALTOR®'s dues obligation "referral licensees" in a separate entity, but does not exempt them if they are licensed with the REALTOR®'s brokerage firm. An "entity" is a separate, legally recognized business and includes all possible structures for a business permitted under state law. The rationale for requiring that referral licensees be associated with a separate entity was to avoid placing an unnecessary administrative burden on associations by requiring them to determine which licensees in a REALTOR®'s brokerage company would qualify for the referral exemption. By requiring that non-active licensees be affiliated with a separate entity only generating referrals, the fundamental principles of the dues formula and dues collection policy were preserved and maintained.

Following are key points related to NAR's Limited Function Referral Office (LFRO) Policy:

- For a REALTOR® (principal) to be exempt from paying size formula dues based on referral licensees, the licenses must be held by an entity separate from the REALTOR®'s brokerage firm, and all referrals must be made to the REALTOR's brokerage firm on a substantially exclusive basis. The same REALTOR® can be a principal in both firms. An "entity" is a separate, legally recognized business and includes all possible structures for a business permitted under state law.
- The exemption for licensees in LFRO's requires the licensees not be engaged to any degree in listing, selling, leasing, renting, managing, counseling, or appraising real property.
- Designated REALTORS® operating a referral firm are required, at least annually, to identify in writing all licensees in the referral firm. [Access a sample LFRO certification form](#). Language added in 2015 to NAR's *Model Bylaws for Local Member Boards* may be adopted by local associations to require that its Designated REALTOR® members notify the association within three (3) days of any change in status of licensees in a referral firm.
- The exemption for a referral licensee is automatically revoked upon the individual engaging in activities requiring a real estate license other than making referrals. Upon revocation of the dues exemption, the license may be placed with the REALTOR®'s brokerage firm, or the licensee may sever his relationship with the firm. In the event the license is placed with the REALTOR®'s (principal's) brokerage firm, the dues obligation of the Designated REALTOR® increases to reflect the additional nonmember licensee. (See Article X, Section 2, Model Board Bylaws concerning proration).

Following are relevant provisions of Article X, Section 2, of the NAR Model Board Bylaws concerning LFRO's:

Associations have the ability and are encouraged to track LFRO licensees in the NRDS system with Member Type L (LFRO).

Questions concerning the LFRO policy may be addressed to NAR's Member Experience staff at 312-329-8399, or at NARPolicyQuestions@realtors.org.

Note: The foregoing is intended only to explain NAR policy related to referral companies and is not intended to address the requirements of state license law.

Section 2. Dues *The annual dues of members shall be as follows.*

(a) REALTOR® Members. The annual dues of each designated REALTOR® member shall be in such amount as established annually by the board of directors, plus an additional amount to be established annually by the board of directors times the number of real estate salespersons and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or who are otherwise directly or indirectly licensed with such REALTOR® member, and (2) are not REALTOR® members of any association in the state or a state contiguous thereto or Institute Affiliate members of the association. In calculating the dues payable to the association by a designated REALTOR® member, non-member licensees as defined in (1) and (2) of this paragraph shall not be included in the computation of dues if the designated REALTOR® has paid dues based on said non-member licensees in another association in the state or a state contiguous thereto, provided the designated REALTOR® notifies the association in writing of the identity of the association to which dues have been remitted. In the case of a designated REALTOR® member in a firm, partnership, or corporation whose business activity is substantially all commercial, any assessments for non-member licensees shall be limited to licensees affiliated with the designated REALTOR® (as defined in (1) and (2) of this paragraph)

in the office where the designated REALTOR® holds membership, and any other offices of the firm located within the jurisdiction of this association. (Amended 1/05)

(1) For the purpose of this section, a REALTOR® member of a Member Board shall be held to be any member who has a place or places of business within the state or a state contiguous thereto and who, as a principal, partner, corporate officer, or branch office manager of a real estate firm, partnership, or corporation, is actively engaged in the real estate profession as defined in Article III, Section 1 of the Constitution of the NATIONAL ASSOCIATION OF REALTORS®. An individual shall be deemed to be licensed with a REALTOR® if the license of the individual is held by the REALTOR®, or by any broker who is licensed with the REALTOR®, or by any entity in which the REALTOR® has a direct or indirect ownership interest and which is engaged in other aspects of the real estate business (except as provided for in Section 2(a)(1) hereof) provided that such licensee is not otherwise included in the computation of dues payable by the principal, partner, corporate officer, or branch office manager of the entity.

A REALTOR® with a direct or indirect ownership interest in an entity engaged exclusively in soliciting and/or referring clients and customers to the REALTOR® for consideration on a substantially exclusive basis shall annually file with the association on a form approved by the association a list of the licensees affiliated with that entity and shall certify that all of the licensees affiliated with the entity are solely engaged in referring clients and customers and are not engaged in listing, selling, leasing, renting, managing, counseling, or appraising real property. The individuals disclosed on such form shall not be deemed to be licensed with the REALTOR® filing the form for purposes of this section and shall not be included in calculating the annual dues of the designated

REALTOR®. Designated REALTORS® shall notify the association within three (3) days of any change in status of licensees in a referral firm.

The exemption for any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities (listing, selling, leasing, renting, managing, counseling, or appraising real property) other than referrals, and dues for the current fiscal year shall be payable.

Membership dues shall be prorated for any licensee included on a certification form submitted to the association who during the same calendar year applies for REALTOR® or REALTOR-ASSOCIATE® membership in the association. However, membership dues shall not be prorated if the licensee held REALTOR® or REALTOR-ASSOCIATE® membership during the preceding calendar year. (Amended 11/09)

LFRO Frequently Asked Questions

1) If a licensee is provided a waiver of dues under the LFRO policy, can the licensee list property of a family member or engage in limited brokerage activity?

No. Individuals granted a waiver, cannot list, sell, lease, rent, manage, counsel or appraise property under any circumstances. To do so would violate the terms of the waiver and lead to an assessment of membership dues, and possible sanction.

2) What real estate activities are authorized under the LFRO waiver?

The only activity authorized under the LFRO waiver is for brokers and licensees to refer clients and customers to the brokerage firm.

3) Does having a referral license hung in the Designated REALTORS® brokerage office qualify for the LFRO waiver?

In order for a REALTOR® (principal) to be exempt from paying size formula dues based on referral licensees, referrals must be made to the REALTOR®'s firm on a substantially exclusive basis and the licenses of referral licensees must be placed in a separate entity apart from the REALTOR®'s brokerage firm. An "entity" means a separate, legally recognized business, and includes all of the possible structures for that business permitted under state law. The rationale for the requirement that referral licensees be placed in a separate entity was the Board of Directors did not want to place an unnecessary burden on associations in determining which licensees in a REALTOR®'s brokerage company would be subject to the referral exemption. The existence of a state license which limits the activities of the licensee to referrals only, does not change the requirement that referral licensees be placed in a separate entity in order for REALTOR®'s to obtain the dues exemption.

4) Can a licensee have a LFRO waiver in one state and hold REALTOR® membership in another state?

While the LFRO policy clearly prohibits LFRO licensees from engaging in licensed activities in the state where the LFRO exemption is granted, the intent of the Committee and Board of Directors in adopting the LFRO policy is that any involvement in licensed activities other than referrals would violate the terms of the LFRO exemption. In other words, if the licensee is engaged in

licensed real estate activities (albeit in another state), they would not qualify for LFRO status. The intent of the LFRO policy was that qualified licensees would be essentially inactive.

5) If someone is granted a LFRO waiver, can they still receive MLS access?

No. If a licensee is in a limited function referral office (LFRO) then it is anticipated that they will not need to access the MLS because they only are engaged in referrals and not listing, selling, leasing, renting, managing, counseling, or appraising real property.

6) What are the consequences if a licensee violates the terms of a LFRO waiver?

The exemption for any licensee may be revoked upon the individual being engaged in real estate licensed activities other than referrals, and dues for the current fiscal year may be imposed. Additionally, the association may discipline the REALTOR® for violation of a membership duty and impose sanctions authorized in the NAR Code of Ethics and Arbitration Manual.

7) If a REALTOR® is fined for violating the terms of a LFRO waiver, can the REALTOR® be terminated for non-payment of the fine?

Yes. The association should follow the procedures in its bylaws for nonpayment of financial obligations.

