

Commission reduction agreements

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For information on commission rebates, see the Registrar's Bulletin [Commission rebates to clients and customers](#).



When you use commission reductions, it is essential to create an appropriate agreement in order to comply with the *Real Estate and Business Brokers Act, 2002* (REBBA 2002).

In a commission reduction agreement, the listing brokerage agrees with the seller to reduce commission that was previously agreed to. The following are the two most common ways this can happen.

- The seller and buyer are represented by the same brokerage.
- A cooperating (buyer's) brokerage offers to reduce its commission and the listing brokerage and seller agree to reduce the total commission payable under a seller representation agreement, i.e. offers to accept less commission.

All commission reduction agreements negotiated by brokers and salespersons are binding on the brokerage. If commission reduction agreements are being offered, the details must be put in writing, and provided by the broker or salesperson to their brokerage. Any commission reductions should be in keeping with the brokerage's policies. But in any case, the brokerage is bound by commission reduction agreements made by its employees in its name.

Most commonly, commission is paid to the brokerage representing the seller under a written seller representation agreement, which may include an agreement to pay a portion of the total commission to a cooperating brokerage that represents the buyer. However, it's important to note that specific commission models are not mandated under REBBA 2002. Various commission models are acceptable as long as they comply with the law.

[Section 25](#) of the [Code of Ethics](#) contains provisions that apply to commission agreements between a brokerage and a seller and offers or proposals to amend them. If the brokerage representing the seller and the seller agree to commission terms that may affect whether one offer would be accepted over another, then the brokerage representing the seller must disclose the details of such terms to anyone who makes a written offer to buy.

This typically occurs in one of two ways:

- Buyer and seller represented by the same brokerage: The brokerage representing the seller offers to reduce commission if the buyer is also represented by the same brokerage (multiple representation). A detailed disclosure must be made to everyone who has made a written offer at the earliest practicable opportunity, and before any offer is accepted. The listing brokerage must put this commission amending agreement in writing.

- Buyer represented by a separate cooperating brokerage: The following are typical steps when a cooperating brokerage offers (proposes) to reduce its commission.
 - A cooperating brokerage representing a potential buyer proposes to reduce its commission to make that buyer's offer more attractive.
 - This would cause a reduction in the total commission payable to the brokerage representing the seller. By accepting that buyer's offer the seller will receive a higher "net" value for the property than they would receive if they paid the commission that they originally agreed to.

Detailed disclosure must then be made to everyone who has made a written offer. The disclosure must be made at the earliest practicable opportunity, but before any offer is accepted. The brokerage representing the seller also needs to provide a written copy of the amendment to the written seller representation agreement to the seller in the event this offer is accepted.

"Detailed" disclosure, as set out in Section 25, means disclosing the terms of the agreement relating to commission and that may affect whether an offer to buy is accepted. The complexity of the disclosure depends on the terms. For example, if the commission reduction agreement is a simple percentage reduction without any limitations or conditions, that is what must be disclosed. More complex reductions would require more detail. The best practice is to disclose in writing to ensure clarity and to create a record of the disclosure.

Commission reduction agreements can be a way to facilitate a transaction. However, registrants have a duty to ensure that the promotion, documentation and delivery of a commission reduction are done in a manner that complies with REBBA 2002. Failure to do so could result in disciplinary or other legal action.

