

## **Changing Commissions?**

*By: Jeff Jones and Carrie Lademan*

*Where are commissions paid to real estate brokerages established?*

*If your answer is in the Listing Contract you are correct!!*

*The Listing Contract is an agreement between the Seller and the Listing Broker. This agreement establishes the compensation to be paid to the Listing Broker and also to a Co-Brokerage if the Buyer is represented by a Brokerage other than the Listing Broker.*

*If the Seller has elected to market the property in the MLS, the Listing Broker must specify the Co-Brokerage commission in the MLS Listing as the promise of compensation. Note that, contrary to what many believe, the Listing Brokerage commission is never identified in the MLS.*

*The Listing Broker may agree to a change in compensation with the Seller at any time during the duration of the Listing Contract. However, caution must be used to make sure that all brokerages involved are treated honestly and fairly.*

*When the Co-Brokerage commission is changed in the MLS, this change is only effective for Contracts submitted **after** the change in commission is posted in the MLS. This timing can be disputed. Therefore, a best practice for a Buyer's Sales Associate is to print the MLS listing information confirming the commission rate at the time a Sales Contract is submitted to the Listing Agent.*

*Of critical importance is to know that the Sales Contract is between the Seller and the Buyer and does not involve the compensation to be paid to either Broker at closing. Real estate associates should **never** use the Sales Contract to change the compensation paid by the Seller to either the Listing or Selling Broker. (Lines 493 and 494 are included in the NABOR Sales Contract to remind all parties involved that compensation may not be changed in this document.)*

*When there is a change in the commission as result of negotiations prior to closing, the affected Listing Broker and/or Selling Broker must agree **in writing** to the change prior to closing for the revised compensation to be effective.*

*Remember that commission rates are established by the Listing Contract, and cannot be changed by the Sales Contract. Any Commission changes prior to closing must be agreed to in writing by the affected Brokers.*