

## **Top 10 Changes to the UCBA for 2019**

**1. The New RLS Compliance Monitoring System:** The RLS will be rolling out a new listings compliance monitoring system. The system is designed to improve the accuracy of listing information in the RLS. The compliance system will “read” all listings input into the RLS and determine whether the information complies with the UCBA’s requirements and the Fair Housing laws. When agents fail to input the right information, they will be automatically notified, by e-mail, that their listing is in violation of the UCBA rules, and needs corrections.

- In connection with the new RLS compliance system, we have created the RLS Listing Data Compliance Policy, which describes the procedures for potential listings violations, and the fines and penalty structure for violations.
- **There will be a grace period of at least 3 months before fines are actually imposed so agents and brokers can get used to the new system. Everyone will be notified well in advance of when the grace period will be ending.**

**2. Article VI, Section 1: Expediting the Complaint Process for Rules Violations:** In addition to the compliance tool, which focuses on listing information violations, we have also expedited the process by which other rules violations are heard. The process is as follows:

- **Submit a Complaint:** A complaining party can submit a written complaint to the RLS, including all supporting evidence, which will be reviewed by the RLS’s compliance staff.
  - Complaints may be submitted confidentially, but if a hearing is required, the identity of a complainant will be disclosed.
- **If the Complaint has Merit:** If the RLS compliance staff believes the complaint has merit, they will issue a violation, and the agent/firm can just correct the violation (within 2 business days), or they can dispute the violation, and submit all evidence in support of their defense.
- **Disputing a Violation:** If someone disputes a violation, the RLS compliance staff will then review all of the evidence, and make a determination.
- **Appealing a Violation Finding:** If someone disagrees with the decision of the RLS compliance staff, they can “appeal” the decision before a three-person panel—that decision will be final and “non-appealable.”

**3. Article I, Section 5(B): Pocket Listings Policy:** The UCBA now includes a policy discouraging the practice of “pocket listings,” and will penalize the excessive use of pocket listings. We all know that certain Owners may ask for their listing to not be co-broked. These listings should be the exception, and the RLS wants to make sure that brokers and agents do not abuse the use of “pocket listing.” The UCBA does not make the “one-off” pocket listing a

violation. But agents will face potential penalties, if an RLS panel determines that pocket listings are a consistent pattern or practice by the agent.

**4. Article III, Section 2: Additional Advertising Regulations:** There are a number of new provisions that relate to advertising when an Owner elects to change firms during the term of the first firm's exclusive listing and that firm elects to not release the listing. They include:

- Preventing the new firm and the moving agent from advertising the exclusive listing for the duration of the prior firm's exclusive/the period the prior firm elects not to release.
- Barring the new firm from inputting the listing into the RLS for the duration of the prior firm's exclusive. We want to avoid having duplicate listing entries in the RLS!

**5. Article III, Section 2: When Assistants Claim Credit for Transactions of Other Team Members:** In recent years, RLS firms have seen an increase in teams. We have seen assistants or junior agents leaving teams to join other firms and claiming credit for all or most of the transactions of the team. The UCBA now allows assistants to advertise listings for which they either:

- Were named in the Exclusive Listing Agreement, or
- The agent received at least 25% of the commission earned by the Exclusive Agent.

**6. Article II, Section 7: Eliminating the Client Certification:** Last year, the UCBA included a requirement that if an Owner wanted to initiate communications with their exclusive agent—who was now switching firms—they needed to provide a written statement setting forth that decision. This requirement appears to have solved very few issues, and simply created headaches for the firms trying to use the certification. Accordingly, that language has now been stricken. We will likely be meeting to figure out a better way to address this issue.

**7. Article II, Section 7: Clarifying Interference with Another Firm's Exclusive Listing:** The UCBA now includes language that provides guidance as to what – under the UCBA – constitutes interfering with another firm's Exclusive Listing. For example, interference includes encouraging an Owner to terminate the prior firm's listing agreement, or advertising a listing that is subject to an existing exclusive listing agreement without the other firm's permission.

**8. Article VII, Section 1, Arbitration Policy:** The UCBA now clarifies that a participating firm can file a lawsuit in court against a former client, and does not need to arbitrate that claim before filing the lawsuit.

**9. New Mandatory Fields:** The UCBA now includes some new mandatory fields, including maximum allowed financing; contract date and contract signed status (after a contract is signed).

**10. Revised Owner Opt-Out Form:** We have revised the Owner Opt-Out form required by Article I, Section 5 to make it more “user-friendly” and easier to understand. As a reminder, the

Owner Opt-Out form must be executed by any Owner who seeks to not have their exclusive property co-broked over the RLS.