

# **Request To Pay Commission To Corporation Or LLC**

Agent/Broker (AGENT) Name \_\_\_\_\_

Corporation/LLC (CORP) Name \_\_\_\_\_

Federal Tax ID \_\_\_\_\_

Whereas AGENT is a licensed real estate agent or broker with WebMLS, Inc. (WebMLS) and an independent contractor;

Whereas AGENT certifies that AGENT is an owner or partner and/or stock owner of said CORP;

Whereas CORP is a legal entity authorized to do business in the State of Ohio and properly registered and in good standing;

Whereas the CORP is not licensed as a Real Estate Broker or AGENT and will not engage in an activity that requires a real estate license;

Whereas AGENT will inform WebMLS if any information relating to CORP changes or is no longer true;

Whereas AGENT has read and understands the attached explanations from Ohio Division of Real Estate and The Ohio Association of Realtors;

Whereas Agent has provided the correct tax ID above and verification that clearly states AGENT has an ownership interest; verification can be one of the following,; Copy of articles of incorporation, Copy of a stock certificate, Copy of partnership or association agreement or Copy of articles of organization for LLC.

Agent hereby directs WebMLS to pay all AGENT commission to CORP as of the date this request is signed and faxed or emailed to WebMLS.

X \_\_\_\_\_  
AGENT

X \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Date



# Answers to Your Frequently Asked Questions

## Commission Payments to Partnerships, Associations, Limited Liability Companies, Limited Liability Partnerships, or Corporations

A broker has authority to pay all or part of a fee, commission, or other compensation earned by an affiliated licensee to an entity mentioned in the title to this article if that entity is not licensed as a real estate broker and satisfies all of the following conditions, as set forth in R.C. 4735.20(C):

“(1) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation holds a valid and active license issued under this chapter.

(2) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation is the affiliated licensee who earned the fee, commission, or other compensation.

(3) The unlicensed partnership, association, limited liability company, limited liability partnership, or corporation does not engage in any of the acts specified in division (A) of section 4735.01 of the Revised Code.

(4) The broker verifies that the affiliated licensee complies with divisions (C)(1) and (2) of this section and keeps a record of this verification for a period of three years after the date of verification.

(5) The broker keeps a record of all of the following information for each transaction, for a period of three years after the date of the transaction:

(a) The name of the affiliated licensee who earned the fee, commission, or other compensation;

(b) The amount of the fee, commission, or other compensation that was earned;

(c) The name of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation to which the broker paid the affiliated licensee’s fee, commission, or other compensation.”

Remember that for purposes of this statute, an “affiliated licensee” is defined in R.C. 4735.20(J) as a “person who holds a valid and active license under this chapter and who is associated with the broker that is paying a fee, commission, or other compensation at the time that the fee, commission, or other compensation is earned.”

## It’s Confidential and not a Public Record

**Whether it is an appraiser or real estate enforcement investigation the rule is simple:**

All information that is obtained by an investigator and the work products of the investigator or other department personnel that arise from that information are deemed confidential. What this means is that ordinarily only the complaint that is filed, precipitating an enforcement investigation case, is a public record; everything else in an enforcement investigation case file is off-limits to licensees, their attorneys and any one else from the public, unless it is later admitted during a public hearing. You will find these confidentiality provisions in R.C. 4735.05(D) for real estate cases and R.C. 4763.03(D) for appraiser cases.



Wed., December  
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# OHIO REALTOR

## The 'how-tos' of paying an agent's commission into a corporation

by Peg Ritenour  
Vice president  
Legal Services

In last month's OHIO REALTOR the amendment to Ohio law that will permit agents to have their commissions paid to a corporation or other legal entity was reported. This modification was accomplished in House Bill 272 and becomes effective April 4. Its purpose is to allow REALTORS to take advantage of any tax benefits that may exist for them by incorporating. The following are answers to some of the questions asked about this new law change.

**Q. Does the law only permit an agent to have their commissions paid to a corporation? Could I form a limited liability company if my CPA recommends that instead?**

A. HB 272 permits a licensee's commissions to be paid to either a partnership, association, limited liability company, limited liability partnership or a corporation in which the licensee has an ownership interest or is an officer.

**Q. Is there a minimum amount of ownership interest that an agent must have?**

A. No, there is no minimum amount of stock or other ownership interest required. Therefore, even a 1 percent interest would be sufficient.

**Q. Can unlicensed persons such as my spouse or children have an ownership interest in a corporation to which my commissions are paid?**

A. Yes. The corporation does not need to be wholly owned by licensees.

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**Q. I work as a team with another agent. Could we form a corporation and each own 50 percent?**

A. Yes, more than one licensee can have an ownership interest in the corporation to which they direct their commissions be paid.

**Q. What type of tax savings can an agent realize by incorporation?**

A. That depends on each agent's individual financial situation. Income level, deductions, retirement plans, etc. are all factors that effect whether a corporation or some other structure will produce a tax savings for an individual. In fact for some agents, once the expense of forming and maintaining the corporation is factored in, there may be no tax benefit whatsoever. For this reason it is extremely important for each agent to receive advice from a tax attorney, CPA, or other tax professional before incorporating or forming any other type of business entity.

**Q. Will I be shielded from personal liability by incorporating?**

A. No. The license law clearly states that an agent is not relieved from personal civil liability by incorporating.

**Q. As an agent if I form a corporation, limited liability corporation, etc., do I have to get that entity licensed by the Division of Real Estate and Professional Licensing?**

A. No, HB 272 did not create a new category for licensure of these entities. Instead, you will still be licensed as an individual. The new law merely allows your broker to now legally pay your commissions to whatever legal entity you form.

**Q. I am licensed as an individual broker with a brokerage, but I really function as a salesperson. I have no ownership interest or managerial position in this brokerage. Can I form a corporation and have my commissions paid to it, or does the new law only allow agents to do that?**

A. The new law applies to both individual agents and brokers. Therefore, you may take advantage of the new provisions as well.

**Q. Can I advertise and conduct business under my corporate name?**

A. No, you must still advertise and conduct all real estate activity in your individual name as it appears on your license.

**Q. As a broker what is required of me if my agent asks that their commissions be paid to their corporation, limited liability corporation, partnership, etc.?**

A. You are required to verify that your agent is either an officer or has some ownership interest in the legal entity to which they want you to pay their commissions. You also must keep a record of this verification for a period of three years along with the following additional information:

1. The name of the licensee who earned the commission, fee or other compensation;
2. The amount paid; and
3. The name of the entity to which it was paid

**Q. What type of verification should I get from the agent?**

A. Examples of verification would be:

- A copy of the articles of incorporation listing the agent as an officer;
- A copy of a stock certificate demonstrating an ownership interest;
- A copy of the partnership or association agreement;
- A copy of the articles of organization for an LLC

A broker may want to ask the agent for a copy of the entity's authorization to do business in Ohio. Although not specifically required by law, a broker may also want to ask the agent to sign a statement that they:

- Are an officer, stockholder, etc.;
- That the legal entity is authorized to do business in the state of Ohio;
- That the entity is properly registered and in good standing;

- That the entity will not engage in an activity that requires a real estate license
- And that they will notify the broker if any of that information changes or is no longer true (i.e., the agent no longer has an ownership interest, the entity is not in good standing, etc.)

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