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Real Estate Agent Commission Dilemma: Unintended Consequences for Homebuyers

Dear Readers and Mortgage Professionals,

We're writing today to address the unintended consequences that may result from the real estate agent commission dilemma stemming from recent lawsuits. As leaders of the Broker Action Coalition (BAC), we represent wholesale professionals, and diverse groups of homebuyers nationwide. There are multiple lawsuits challenging the prevailing structure of real estate agent commissions, and, as a result, there is no shortage of industry conversation on the topic. Specifically, these lawsuits and surrounding conversations address the convention of sellers bearing the cost of commissions for both their agent and the buyer's agent.

In this open letter, our discussion is deliberately narrow, centering exclusively on potential adverse impacts to the mortgage industry and borrowers that might arise if, as a result of this lawsuit, buyers find themselves compelled or expected to shoulder the cost of buyer agent commissions. Our analysis does not extend to the broader market ramifications, as such considerations fall outside our expertise.

Future homebuyers will undeniably feel the impact of this conversation for decades to come. As advocates for homebuyers, we feel it's our responsibility to address the potential ripple effects for homebuyers nationwide.

The complexity of the homebuying ecosystem is vast. A single home purchase transaction involves Buyers, Sellers, Real Estate Agents, Mortgage Lenders, Settlement Companies, Appraisers, Insurance Companies, and Court Systems, to name a few. Modifying the operational dynamics of one component can send shockwaves throughout the entire system. Below, we shed light on the potential unintended consequences to mortgages and specific consumer groups should buyers be compelled to cover their agent's commissions.

1. Impact on Military Servicemembers and Veterans

Foremost, this shift would adversely affect a group of individuals who've already given so much to our nation: our Active-Duty-Military Servicemembers and Veterans. VA Guidelines categorically prevent buyers from paying agent commissions ("VA Lender's Handbook," Chapter 8, Section 3, Subsection c). Consequently, should buyers be tasked with these fees, our military community would face the untenable choice of forgoing real estate agent representation or not availing their VA Home Benefit. Even in a scenario where paying agent commissions becomes a norm but isn't mandatory, VA Buyers stand

to lose. Their offers — asking sellers to shoulder all commissions — might be overlooked in favor of more conventionally structured bids, especially in competitive markets.

2. Impact to First-Time Home Buyers

Moreover, First-Time Home Buyers (FTHB), particularly those from marginalized communities, would encounter heightened barriers. With home prices and interest rates climbing steadily, the barrier to homeownership is already too high. While the minimum down payment for FTHB on conventional financing stands at 3%, bearing agent commissions would effectively double this threshold in many instances.

3. Impact on the Appraisal Process

Incorporating inconsistent agent commission payment patterns — sometimes by buyers, other times by sellers — could compound complexities in the appraisal process. Determining property values involves analyzing several variables beyond just sale prices. Appraisers consider seller closing-cost credits, transaction nature, property conditions, and more. Injecting "Who bore the buyer's agent commission?" into this matrix, especially when such data isn't currently available to appraisers, complicates matters further, destabilizing confidence in the value of the loan's collateral.

4. Impact on Down Payments

Down payment costs are already a source of concern for many potential homebuyers. With this potential impact on borrowers, their intended down payment could be adversely impacted. For example, a homebuyer intending to put down a 20% down payment may now only be able to afford to put down a 17% down payment, thus needing to incur Private Mortgage Insurance (PMI), which could raise their monthly mortgage payment significantly.

Change, though often inevitable, does not operate in isolation. A shift in one part of the ecosystem can trigger unintended consequences throughout the entire ecosystem and its inhabitants. This principle holds true both in nature and in real estate transactions. While some outcomes can be foreseen, where there is smoke, there is fire, and we can be fairly certain that there are additional, unforeseen ramifications that only become clear after the fact. The issues highlighted in this letter likely serve as the tip of the iceberg.

In conclusion, we emphasize our hope that the potential unintended consequences of such lawsuits — particularly those affecting our nation's Veterans and underserved communities — will be thoughtfully considered and integrated into the wider conversation on this issue.

Regards,

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