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How NJ agents feel about real estate consumer protection law

The real estate consumer protection law one year later.

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New Jersey's Real Estate Consumer Protection Enhancement Act went into effect in August 2024 with the goal of creating a more transparent and buyer-friendly market. And now, one year later, local agents say they think it's working.

"I had my concerns just because it required another layer of paperwork and another layer of conversation," said Allison Maguire, a sales associate with Brown Harris Stevens in Montclair. "Now that we've been into it for a year, it's just become part of my routine. And I really do think it has helped with transparency."

The law established a list of new regulations for the Garden State's real estate market, including mandatory property condition disclosure forms from sellers and landlords, and a requirement that listing agents post a disclosure of representation at open houses. The law also permitted designated agency, where a managing broker of a real estate agency can choose an agent within their office to represent a client.

One of the biggest changes, though, was that the law made Buyer Representation Agreements mandatory for all buyers and renters. Previously just a recommendation, these agreements highlight the responsibilities of your real estate agent and how agents will receive their commission, and are required to be signed by buyers and tenants to privately tour properties during their search.

Maguire said this regulation forced her to think about what she brings to the table as an agent, and to understand how she can make the process as clear as possible with her buyers through this agreement. She said these agreements also provide a lot of flexibility, so they can fit the needs of her clients.

"There's a fear of being stuck in a contract and having to just stick with one agent. And that's where I come in and explain what the Buyer Representation Agreement is. You can sign for one town or multiple towns and to work with that agent for three days or three months. You can sign a non-exclusive Buyer Representation Agreement where you don't have to just stick with one agent," she said. "It's really about us explaining to each buyer what this agreement is, and once they understand they're more comfortable."

Michael Read, owner of Bridgeway Mortgage and Real Estate Services in Morristown, said he believes this agreement provides protections for all parties involved in a transaction. So buyers and renters are given more clarity about the process from the beginning, he said, and agents are protected by the outlining of what their responsibilities and expectations are.

Overall, although there hasn't been much pushback from clients over signing these agreements, Maguire said first-time homebuyers and renters have generally been more hesitant than established buyers.

The person responsible for paying the commission for the buyer's agent has also become more clear through this process, since the Buyer Representation Agreement requires agents to specify how they'll be compensated. Sellers were previously responsible for paying the commission of both agents, but the agreement now leaves room for it to fall on the buyer for their own agent.

"I think the conversations with home sellers have become more transparent as far as exactly where their funds are going," Read said. "I think it gives the sellers more options and has opened up conversations between agents as far as how commissions are being paid."

Read said he generally hasn't seen many instances where buyers are responsible for paying their agent's full commission since this regulation became mandatory. But Maguire said she has seen more examples of sellers paying only a portion of a buyer's agent's commission, leaving the rest to be paid by the buyer. "Prior to this, we'd only receive commission from one source, but now we can receive commission from two sources. We can receive it from the seller and the buyer, if the seller is not offering what we've signed in our buyer agreement," she said. "So now sellers are saying, for example, that they'll pay their agent the 2.5% commission but pay the buyer's agent only a 2% commission because the agent has the possibility of getting that half percent or more from their buyers."

She said this has also been affected by New Jersey's new mansion tax rules, which implemented higher fees for properties over \$1 million and shifted the burden of those fees from property buyers to sellers as of July 10. Sellers of those properties are becoming more keen on paying less commission to help combat these new fees.

As it stands, Read said he believes that there could be more changes down the road to these regulations, or the addition of new regulations. But for now, he said, he thinks this has been good for the market overall.

"This was a big deal. It probably caught a lot of people off guard," he said. "I think there is room for some modification, as there always is with this sort of thing. But I think at this point, a year later, it's been more successful than probably what many people thought it would be."

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