

The REALTOR®'s Dues Formula - A Fair Share (Article)

The following article was written in June 1981 by then Senior Vice President and General Counsel of the NATIONAL ASSOCIATION OF REALTORS® William D. North. While somewhat dated, this article continues to accurately explain NAR policy on the computation of REALTOR® dues. One amendment has been made to the article, found in the footnote, in response to changes in policy adopted since the article was written.

June 1981 - The Executive Officer **The REALTOR®'s Dues Formula - A Fair Share**

William D. North Senior Vice President and General Counsel - NATIONAL ASSOCIATION OF REALTORS®

The delegates to the 1972 Convention of the NATIONAL ASSOCIATION OF REALTORS®, meeting in Honolulu, Hawaii, overwhelmingly approved a new dues formula for computing the dues of REALTOR® members. This dues formula called for assessment of REALTOR® dues computed on the basis of the size of the REALTOR®'s organization, i.e., on the number of individuals licensed with the REALTOR®.

The number of individuals licensed with the REALTOR® was selected as the most accurate and equitable method of assessing dues proportional to the membership benefits and services accruing to the REALTOR® and through the REALTOR® to all individuals licensed with the REALTOR® in the practice of real estate. Other possible methods of computing the REALTOR®'s dues that were considered included the sales volume of the REALTOR®'s firm, the number of offices, and other such measures. However, after extensive and careful deliberation, it was determined that the number of individuals licensed with the REALTOR® was the fairest measure of benefits accruing to the REALTOR® from his Membership, and this was selected as the foundation for membership dues in the Association.

At the same time, two contingent provisions were adopted and approved as a part of the REALTOR® dues formula.

First, it was recognized that if some or all of the individuals licensed with the REALTOR® also held REALTOR® membership, and paid dues for such membership, it would not be equitable to also charge the REALTOR® in respect to such persons; so a credit setoff against the REALTOR®'s dues obligation was provided for each individual licensed with the REALTOR® who voluntarily held REALTOR® membership as a matter of personal option and election.

Secondly, in respect to any given firm comprised of more than one REALTOR® principal, it was specified that only one (1) of the principals designated by the firm would be charged on the basis of the size formula. All other principals of the firm would be charged only a base amount of dues as determined and not charged any dues in respect to the number of individuals licensed with the firm.

Inasmuch as only one REALTOR® principal designated by the firm was obligated to pay dues based on the size of the firm, the size formula adopted has also been referred as the "designated REALTOR® dues formula." Since the designated REALTOR® is given a credit against his dues obligation for each individual licensed with him who holds REALTOR® membership, his dues are then ultimately computed on the basis of:

(1) A base amount as determined by the local board.

(2) A further amount as determined times the number of individuals licensed with the REALTOR® who do not hold membership in the board.

Thus, in the final analysis, the designated REALTOR® pays dues (his own personal dues) for Membership benefits and services received by the REALTOR®; which are proportional to the number of such persons affiliated with the REALTOR® who benefit from his REALTOR® membership and its benefits and services, but do not personally hold membership and pay no dues.

It must be clearly understood that the designated REALTOR® is not paying dues for individuals affiliated with him who elect not to be board members. They are not board members and therefore have no dues payable to the board. Any benefits of board services that such licensees realize accrue to them solely through their relationship with the designated REALTOR® and are not provided to them directly by the board. Rather, the REALTOR® pays his dues (his own and not the dues paid for others) as computed on the number of individuals licensed with him, but who are not members of the board.

It should be pointed out that this formula was adopted by the National Association in 1972 for REALTOR® membership in the National Association and retained as the basis for REALTOR® membership in the National Association until November 1978, when the National Association revised its bylaws in respect to membership dues. In November 1978, the National Association revised Article II of its Bylaws to require payment of dues only by member boards.

The bylaws as revised do not provide for any dues payable directly by REALTORS® to the National Association. Rather, when a member board has paid its member board dues, the REALTOR® members of the board as

reported by the board are automatically deemed to be REALTORS® of the National Association. (It is recommended to State Associations that they have similar dues requirements of member boards only, but this is a determination of the State Association and is determined as stated by their respective bylaws.)

However, even though the National Association revised its bylaws in 1978 to require dues of member boards only, the dues obligation of member boards is computed upon "...the number of REALTOR® members of the board and the number of individuals licensed with REALTOR® members by the board who are not themselves REALTOR® members." The phrase, "...the number of individuals licensed with REALTOR® members of the board and who are not themselves REALTOR® members" and those individuals licensed with REALTOR® members of the board who are not board members. In other words, the member board dues obligation remains based upon the premise that the benefits and services which flow from the National Association to REALTORS® and those affiliated with them is most equitably measured by size of the REALTOR® 's organization (number of individuals licensed with the REALTOR®).

In turn, most member boards have adopted and utilized the designated REALTOR® dues formula (i.e., the size formula) on the local level and look to the designated REALTOR® for payment of dues calculated on the number of licensees affiliated with the REALTOR®, with credit offsets for all affiliated licensees who hold board membership. The dues provision of the board bylaws is applicable, of course, only to those licensees affiliated with the REALTOR® within the jurisdiction of the board*, and is applicable in respect of those individuals licensed with the REALTOR® in any real estate firm in which the REALTOR® holds an ownership interest, provided that such dues obligation does not duplicate dues paid by another principal (designated REALTOR®) of any such firm.

To identify clearly the intent of the National Association Bylaws with respect to the dues obligation of the member board, and in turn to clarify the basis upon which the member board might appropriately establish its dues provisions for designated REALTOR® members of the board, the National Association amended Article II, Section 1(b) of the bylaws of the National Association to contain the following provision:

An individual shall be deemed to be licensed with a REALTOR® if the license of the individual is held by a REALTOR® or by an entity in which the REALTOR® has a direct or indirect ownership interest and which is engaged in soliciting and/or referring clients or customers to the REALTOR® for consideration on a substantially exclusive basis, provided that such licensee is now otherwise included in the computation of dues payable by the principal, partner, or corporate officer of the entity.

Member boards are advised that with respect to 'direct ownership' interest specified above, this should be self-explanatory. It is ownership, in whole or in part, by the REALTOR®, as the principal or a principal of a real estate firm. The term, 'indirect ownership' would include ownership held through a 'holding company', a 'trust', or other legal device which may provide effective ownership control.

The dues obligation does not apply to situations in which there is no ownership relation, direct or indirect, even though a beneficial interest or benefit may exist.

*Due to changes in policy since the printing of this article, the referenced dues provision of the board bylaws is now applicable to licensees (and licensed or certified appraisers) affiliated with a REALTOR® in the state or state contiguous thereto. Therefore, the wording, "within the jurisdiction of the board" is no longer applicable, and should be appropriately replaced with, "within the state or state contiguous."

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