



Broker-to-Builder Referral Agreement

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QUESTION: I have a buyer agency agreement with some clients who are looking to build a custom home. They recently found some vacant land they want to purchase and are ready to meet with some builders who can design and build their custom home. I spoke to one of those builders and discussed how I might be compensated for referring my clients to him. If I can come to an agreement with the builder, is there a form I can use to confirm our fee arrangement?

ANSWER: Until very recently, the answer was no. However, Standard Form 731 was added to the forms library on July 1 in response to multiple inquiries like yours. The form was designed for use when a builder agrees to compensate a firm for the firm's referral of a specific prospect to the builder for the purposes of constructing a dwelling. Standard Form 731 can be accessed [here](#).

The form is designed be used in two different contexts, either (a) where the Prospect has purchased or will purchase the real estate from a third party; or (b) where the builder owns the real estate that the Prospect is interested in purchasing (either before or after the builder completes the construction) There are separate compensation sections in Form 731 for each of these scenarios. If the land where the construction will occur is still owned by a third party, the builder's improvements will be made after the lot closes, and it is the first compensation section, entitled "Compensation Based on Cost of Improvements," that should be completed.

At the end of the form, there is a place for the Prospect to acknowledge that he or she has been made aware of the terms of the Referral Agreement. The rules of the North Carolina Real Estate Commission require that in a real estate transaction, a referring firm (i.e. a firm receiving a referral fee) must disclose to his or her principal any compensation of more than nominal value received from a third party. While that disclosure may be made orally, it must be confirmed in writing before the principal makes or accepts an offer to buy or sell.

A note at the top of Form 731 makes it clear that the form is not a substitute for an agency agreement, where brokerage services other than or in addition to the referral of a Prospect to the builder will be performed for either the Prospect or the builder .

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