



Consumer Federation of America

The Availability of Consumer Information From State Real Estate Commissions

Stephen Brobeck
Senior Fellow

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Introduction

Home buyers and sellers spend approximately \$100 billion a year on real estate commissions.¹ Moreover, the quality of the services these consumers receive from real estate agents affects billions of additional dollars from under or overpayment of properties that are sold. Because of these large financial stakes, as well as related factors, buyers and sellers greatly benefit from easy access to important information about their agents and the sales process. This information includes but is not limited to:

- whether their agent is licensed,
- whether the agent has been disciplined by regulators,
- whether the agent they are working with at various stages in the sales process represents their interests or those of the other party,
- what to expect during this process,
- what consumer rights and protections exist, and
- how to complain about agent practices thought to be unfair.

During the past two years, the Consumer Federation of America has released four major reports on consumer information related to agent representation, commissions, and quality of service.² These studies have focused entirely on information provided by agents themselves and

¹ Multiplying the latest average home sale price reported by the Federal Reserve Bank of St. Louis (\$387,000) by a typical number of home sales (6 million, the rough average of annual sales in 2019 and 2020) by an average commission of 5 percent yields a product of \$116 billion, which must be adjusted down for those homes sold without assistance from agents (FSBOs).

² The Agency Mess: Home Buyers and Sellers Are Confused and Harmed by Complex, Poorly Enforced State Laws on Real Estate Agent Disclosures (January 2020). Hidden Real Estate Commissions: Consumer Costs and Improved

by third parties such as Zillow and Realtor.com. The reports have also called on state regulatory agencies to require agents to effectively disclose key information about agent representation and commissions. However, most of the information mentioned in the previous paragraph can come only from regulators themselves. Only these government agencies can license agents and brokers, establish consumer protections, enforce these protections, investigate complaints against real estate practitioners, discipline individual agents for unfair practices, and make available information about all these regulatory roles.³ Accordingly, it is essential that regulators make consumers fully aware of these services and protections and how they can be accessed. It is also helpful if regulators can provide information that demystifies the sales process and the role of agents.

A large majority of states have granted substantial authority for this oversight and regulation to real estate commissions. Though ultimately accountable to state governors and legislatures, these commissions are given great independence. This report analyzes and evaluates the consumer information made available by the commissions (or in several states, by other regulatory bodies) on their websites, which represent the principal source of information provided to all outside parties. The study develops criteria for this evaluation then applies the criteria to the chief regulatory bodies in all 50 states and the District of Columbia.

The report finds that about two-fifths of all state regulators provide no consumer information identified as such, another two-fifths supply inadequate information, and just one-fifth provide a broad array of information that is easily accessible by consumers. The study also suggests reasons for these information failures, calls on states to remedy them, and offers related advice to consumers.

It should be noted that the report assesses only the availability of information on websites. This availability is not necessarily related to the quality of services identified – for example, the range and effectiveness of complaint resolution, the rigor of agent disciplinary efforts, or the extent to which agents are required to comply with disclosure requirements. These and other issues must be evaluated separately.

Transparency (October 2019). Why Required Real Estate Disclosures About Representation Fail and How They Can Be Improved (January 2020). Choosing a Real Estate Agent: An Evaluation of Information Sources About Quality of Service (July 2020).

³ There is remarkably little published research on state real estate commissions. The most useful source is the Federal Trade Commission's magisterial and critical 1983 staff report on the industry titled, *The Residential Real Estate Brokerage Industry*. The authoritative journal article by Ann Morales Olazabal – *Redefining Realtor Relationships and Responsibilities: The Failure of State Regulatory Responses* – published in the *Harvard Journal of Legislation* 65 (2003), also contains useful information. A 2006 report by Patrick Woodall and Stephen Brobeck published by the Consumer Federation of America – *State Real Estate Regulation: Industry Dominance and Consumer Costs* – documents the industry's control of state real estate commissions.

Method

The research identified state regulatory bodies by googling “(name of state) real estate commission.” In all 51 instances, this search provided the name of the chief regulatory body. Most frequently, this agency was a real estate commission or board, but in several states it was a division, department, or branch. For all 50 states and DC, though, there was a website providing information to interested parties.

The research then established criteria for evaluating these websites. The criteria included the following information:

- Whether an agent is licensed.
- Whether an agent has been disciplined by regulators and the infraction.
- What roles an agent may play in relation to their customer – as a loyal representative, a dual agent, the agent for another party, or the agent for neither party. Earlier CFA research identified more than 50 terms used by different states to identify these relationships and also revealed that the relationship can change during the course of the sale.⁴
- How a consumer can complain if they feel they have been treated unfairly by an agent.
- General information about consumer protections and the whole sales process, and advice about how consumers can receive good value from agent services.

As significantly, the criteria included how this information was presented, most importantly, whether there was a consumer page prominently identified on the home page menu of the website. Many state websites include much or all of the specific information noted in the previous paragraph, but spread it throughout several sections of the website and do not identify it as consumer information. Consequently, consumers cannot easily access this information. In fact, since many websites are explicitly designed for real estate professionals, consumers are effectively discouraged from looking for the information.

Applying these criteria, the research rated each website as poor, fair, or good for consumer information.

- For websites deemed **poor**, there was no recognition of consumers; the website was obviously intended solely for use of real estate professionals. While most of these websites contain information of use to consumers, it was usually not easy to find and not identified as such.

⁴ Brobeck, Real Estate Disclosures, loc. cit.

- For websites deemed **fair**, there was some recognition of consumers, but the consumer page was not prominently featured, included incomplete information, and/or lacked information about agent roles and representation.
- For websites deemed **good**, the consumer page was identified in a main menu on the home page and included a broad range of information. The latter always included information on agent roles and representation.

The research was undertaken over a period of several months in late 2020 and was checked and updated in December of that year.

Findings

As indicated in Table 1 below, the research identified 21 websites (41%) as **poor**, 19 websites (37%) as **fair**, and 11 websites (22%) as **good**.

Table 1: Rating of Availability of Consumer Information from State Websites

Alabama Real Estate Commission	Good
Alaska Real Estate Commission	Fair
Arizona Department of Real Estate	Fair
Arkansas Real Estate Commission	Good
California Department of Real Estate	Fair
Colorado Division of Real Estate	Fair
Connecticut Real Estate Commission	Good
Delaware Real Estate Commission	Poor
DC Real Estate Commission	Fair
Florida Real Estate Commission	Poor
Georgia Real Estate Commission	Poor
Hawaii Real Estate Branch	Good
Idaho Real Estate Commission	Good
Illinois Division of Real Estate	Fair
Indiana Real Estate Commission	Poor
Iowa Real Estate Commission	Poor
Kansas Real Estate Commission	Poor
Kentucky Real Estate Commission	Poor
Louisiana Real Estate Commission	Poor
Maine Real Estate Commission	Fair
Maryland Real Estate Commission	Good
Massachusetts Board of Registration of...	Fair
Michigan Department of Licensing and...	Poor

Minnesota Real Estate License Guide	Poor
Mississippi Real Estate Commission	Poor
Missouri Real Estate Commission	Fair
Montana Board of Realty Regulation	Poor
Nebraska Real Estate Commission	Good
Nevada Real Estate Commission	Poor
New Hampshire Real Estate Commission	Poor
New Jersey Real Estate Commission	Fair
New Mexico Real Estate Commission	Poor
New York Board of Real Estate	Good
North Carolina Real Estate Commission	Good
North Dakota Real Estate Commission	Poor
Ohio Real Estate and Professional Licensing	Fair
Oklahoma Real Estate Commission	Poor
Oregon Real Estate Commission	Fair
Pennsylvania Real Estate Commission	Fair
Rhode Island Real Estate Commission	Poor
South Carolina Real Estate Commission	Poor
South Dakota Real Estate Commission	Good
Tennessee Real Estate Commission	Fair
Texas Real Estate Commission	Good
Utah Division of Real Estate	Fair
Vermont Real Estate Commission	Fair
Virginia Real Estate Commission	Fair
Washington Real Estate Commission	Fair
West Virginia Real Estate Commission	Poor
Wisconsin Department of Safety and...	Poor
Wyoming Real Estate Commission	Fair

This table indicates that states with good websites are found in all areas of the country and were developed by small as well as large states.

- **East:** Connecticut, New York, Maryland
- **South:** Alabama, Arkansas, North Carolina
- **Midwest:** Nebraska, South Dakota
- **West:** Texas, Idaho, Hawaii

Accordingly, there appears to be no relationship between having a pro-consumer website and either political affiliation or level of department resources. The quality of commission leadership, however, may well be a factor. Alabama's website, for example, was one of the most

informative and easiest for consumers to use. “Consumer” is the second of six menu items at the top of the website’s home page, which links to a consumer page that includes information on many topics with links to a pamphlet describing different brokerage services, to a database of licensees, to a complaint form, and to other materials. Pat Anderson, who recently retired as the Commission’s executive director after 43 years with the agency, probably deserves much credit for the effectiveness of this website presentation.⁵

The research found that no website could be considered excellent because none included a description of all important consumer protections, adequate explanation of the sales process, and useful advice to consumers about how to receive good value from agent services. However, South Dakota’s consumer guide – “Buying and Selling a Home in San Dakota” – was noteworthy for being comprehensive, relevant, and clearly written. It includes sections on real estate terms, advice for buyers, advice for sellers, filing a complaint, and dealing with discrimination as well as a referral guide. Connecticut’s website advice to home buyers and to sellers about dealing with agents was also especially useful and clearly written.

Recommendations for Regulators and for Consumers

CFA believes that real estate regulation should be undertaken by independent regulators, not by the industry. In a large majority of states, that is not the case. Most frequently, regulation is undertaken by a real estate commission, with an industry majority, which guides the work of full-time staffers.⁶ As the 1983 FTC staff report explains, this industry dominance is an outcome of early 20th-century efforts by the industry leaders to rationalize and professionalize the industry. The key events here were the decisions of the industry in each state, over a period of several decades, to license real estate agents and establish standards that agents were required to meet to be licensed. Some time after that in each state, industry leaders decided that it would serve several purposes if licensing was performed by a state agency, usually a real estate commission controlled by realtors, which these leaders persuaded state legislators to adopt.⁷ That reality helps explain why so many websites appear to have been created solely for the use of industry professionals. Even those websites with good consumer information focus far greater attention on licensing, licensing standards, and continuing education requirements.⁸

These commissions should remember that their mission involves not only licensing agents, ensuring their continuing education, and settling their disputes but also informing, protecting, and assisting home buyers and sellers. Creating useful consumer pages on their

⁵ The home page of the Alabama Real Estate Commission features a recognition of Anderson’s service to the agency.

⁶ Woodall, *State Real Estate Regulation*, loc. cit.

⁷ FTC staff report, loc. cit., especially pages 80-91 and 101-106.

⁸ To an extent this industry self-regulation does benefit home buyers and sellers, but it is compromised by the industry’s own financial interests and often sets a relatively low priority on consumer protection and information, as this report illustrates.

websites is one of many ways that state agencies can provide this service. It is noteworthy that in the 21 states without a consumer page on their real estate website, all but one state has prominent and extensive consumer information on their insurance websites.⁹

Consumers should ask state regulators for this information and should not hesitate to file legitimate complaints. If the information is not forthcoming or their complaints are not adequately addressed, they should inform their governor and legislative representatives of this regulatory failure.

[The Consumer Federation of America](#) is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education.

⁹ The website of this one state does include much consumer information.