

# Legal Luncheon & Board Update

**Thursday, May 30, 2019**

► **Buffet Lunch**

► **CEO Sandy Carroll** with Board Update

- Fundraisers
- MLS Contracts to be uploaded
- Conversion to Ziplogix
- New Fine Schedule
- New MLS Billing

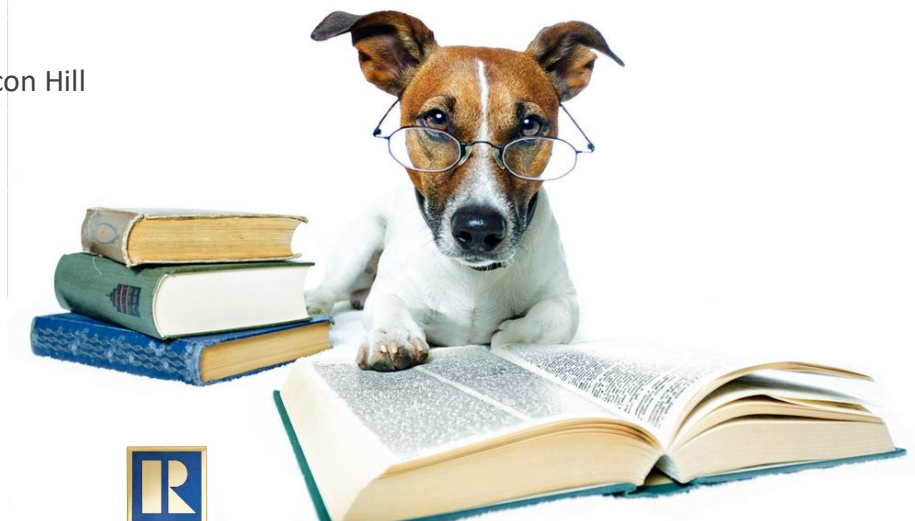
► **Attorney Michael Shepard**, Berkshire Board Counsel

- Exclusive Right to Sell Updates
- Purchase and Sale Updates

► **Attorney Justin Davidson**, Mass Association of REALTORS General Counsel

- Family & Medical Leave Act
- Agency Issues
- Short Term Rentals
- Real Estate Teams
- Escrow Issues
- Cyber Security
- Service Animals
- Realtor Day on Beacon Hill

► **Questions for Panel**





## Progressive Fine Structure

Progressive fines shall be **tracked for agent violations** in a calendar year, yet charged to the responsible Participant / Office. The participant shall be notified by MLS staff of each instance of an agent violation at the time of incident.

Type	Policy Violation	Fine
New Exclusive Right to Sell Paperwork:	Failure to submit the Exclusive Right to Sell agreement with the MLS# within two (2) business days of the seller's signature.	<ul style="list-style-type: none"> <li>• \$10 First offense</li> <li>• \$25 Second offense</li> <li>• \$50 Third offense</li> <li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>
Delayed Dissemination Paperwork:	Failure to submit the Exclusive Right to Sell agreement with the Delayed Or Refusal To List Property In MLS form within two (2) business days of the seller's signature.	<ul style="list-style-type: none"> <li>• \$10 First offense</li> <li>• \$25 Second offense</li> <li>• \$50 Third offense</li> <li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>
Exclusive Right to Sell Modification Paperwork:	On recently expired listings (under 30 days), failure to submit the Exclusive Right to Sell Modification or Agreement with the new MLS# within two (2) business days of the seller's signature.	<ul style="list-style-type: none"> <li>• \$10 First offense</li> <li>• \$25 Second offense</li> <li>• \$50 Third offense</li> <li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>
New Listing Entry In MLS	Failure to submit all mandatory listing information for dissemination to the MLS membership. Mandatory data includes listing input, at least 1 primary photograph, and the lead paint form (when required).	<ul style="list-style-type: none"> <li>• \$50 2-5 days late</li> <li>• \$150 6-11 days late</li> <li>• \$400 12-17 days late</li> <li>• Fines for listings more than 17 days late will be administratively assessed at a meeting with the MLS Board and the Participant</li> </ul>
Submitting a listing without a signed Exclusive Right to Sell Agreement or Modification to Extend.	Submitting a listing without a signed Exclusive Right to Sell Contract or without a Modification of Listing form extending the contract beyond the original term.	<ul style="list-style-type: none"> <li>• Withdrawal of listing, plus</li> <li>• \$50 First offense</li> <li>• \$150 Second offense</li> <li>• \$400 Third offense</li> <li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>
Under Agreement Status	Failure to submit Active Contingent UA flag (provided the agent is continuing to show the property) or change to Pending status within two (2) days of seller(s) execution of the Purchase and Sale Agreement	<ul style="list-style-type: none"> <li>• \$10 First offense</li> <li>• \$25 Second offense</li> <li>• \$50 Third offense</li> <li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>
Closed Status:	Failure to change status to sold with full sold details within two (2) business days of a closing	<ul style="list-style-type: none"> <li>• \$100</li> <li>• More than two failures to report a sale within 2 business days of the closing will be administratively assessed at a meeting with the MLS Board and the Participant</li> </ul>
No Documents Received when Requested	Failure to provide the Board Office with hard copy documentation when requested, by 5:00 p.m. of the next business day.	<ul style="list-style-type: none"> <li>• \$100 and withdrawal of the listing from MLS</li> <li>• 5+ days no response, and the matter will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li> </ul>



Type	Policy Violation	Fine
DOM / History Manipulation	Adjusting of DOM or masking of listing history via manipulation of listing date, address or by any other means	<ul style="list-style-type: none"><li>• Warning for First offense</li><li>• \$50 Second offense</li><li>• \$150 Third offense</li><li>• Additional offenses will be addressed per Section 7 of the Rules &amp; Regulations, administratively at a meeting with the MLS Board and the Participant</li></ul>
Listing Errors Discovered by MLS Staff when Checking the Exclusive Right to Sell Agreement	Incorrectly entered list date, expiration date, price, or address. Duplicate sold information entered when listed in 2+ property types. Incorrect selling agents listed in pending.	<ul style="list-style-type: none"><li>• Notification to Agent and Broker</li></ul>
Exclusive Right to Sell Agreement Errors	No DR Signature, Missing Initials on contract, Missing Seller Date/Signature, Missing Price, Missing Expiration.	<ul style="list-style-type: none"><li>• Notification to Agent and Broker with request for correction, to be initialed by the seller ASAP. Must respond no later than 5:00 p.m. of the next business day, or the above fine applies.</li></ul>

- **Note: To help eliminate DOM errors, (1) when coping an older listing, the original list date copies forward, so the agent would have to proactively change that date to skew the Days on Market. (2) Added a note that the date of listing should be the date on the ERTS contract.**
- **Note: When documentation is requested, the request is sent to both the DR and agent and the Failure to Respond fine applies when neither send the required document.**

# STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE EXCLUSIVE RIGHT TO SELL CONTRACT

MLS #

1. **PARTIES.** Seller(s) Name(s) \_\_\_\_\_ ("SELLER")  
Mailing Address: \_\_\_\_\_  
Broker / Corporation: \_\_\_\_\_ ("BROKER")  
Property Address: \_\_\_\_\_ ("Property")

2. **LISTING TERMS:** SELLER hereby gives and grants to BROKER, a member of Multiple Listing Service (MLS) of the Berkshire County Board of REALTORS®, Inc., the exclusive right to list and sell the above mentioned Property for the period to begin on the date of the SELLER signature and end on \_\_\_\_ / \_\_\_\_ / \_\_\_\_, unless extended in writing by all parties involved. The list price for the Property shall be \$ \_\_\_\_\_ or at such other price, terms and considerations to which SELLER may agree.

3. **LICENSEE-CONSUMER RELATIONSHIP:** SELLER acknowledges that they have been provided with a completed copy of the 'Massachusetts Mandatory Licensee-Consumer Relationship Disclosure' form. SELLER further acknowledges that the BROKER represents the SELLER as a Seller's Agent. SELLER may authorize additional representation by real estate agents of other firms by completing a Subagency Consent addendum. If the BROKER represents a buyer who is interested in the Property, the BROKER may: ☐ **Serve as a Disclosed Dual Agent** / ☐ **Appoint Designated Agent(s)**. The applicable 'Consent Addendum' attached is incorporated herein by reference.

SELLER acknowledges that it shall not constitute a violation of any duty owed to SELLER by the BROKER, or by any agent associated with the BROKER, to advise a prospective buyer of the availability of a competing property or to assist a buyer with the purchase of another property.

## 4. **BROKER'S DUTIES:**

- a) **LISTING DATA:** BROKER shall prepare a detailed property description, advertise and market the Property as BROKER shall deem appropriate.
- b) **MLS:** BROKER shall submit the Listing Data to the MLS within two (2) business days from the SELLER's signature and offer of compensation for the procurement of a buyer to cooperating MLS brokers.
- c) **EFFORTS:** BROKER shall use best efforts to secure a purchaser for the Property.
- d) **FAIR HOUSING:** BROKER shall market the Property in compliance with all Massachusetts and Federal fair housing laws and present the Property equally and without regard to any person's race, sex, age, marital status, religious creed, color, national origin, physical or mental handicap, family status, ancestry, genetic information, veteran status, gender identity, use of public assistance or any other protected class.

5. **COMMISSION:** If within the term of this Agreement or any extension, the Property is sold or the BROKER procures a buyer who is ready, willing and able to buy at a price and on the terms set forth herein or on such other price and terms as the SELLER may agree, the BROKER shall be due a professional fee for services rendered of \_\_\_\_% of the purchase price. Said fee shall be based on a Purchase and Sale Agreement purchase price less any closing cost credits paid by SELLER to Buyer, if any. Fees shall be paid at the time of closing and may be deducted from the amounts held by BROKER as escrow agent. From the total % of professional fees shown above, BROKER will offer the following compensation to cooperating MLS brokers: Buyer agents: \_\_\_\_%, Facilitators: \_\_\_\_%. ☐ Other offers of cooperation and/or compensation outlined in par 13.

## 6. **SELLER'S DUTIES:**

- a) **ACCESS:** SELLER hereby agrees to permit the BROKER access to the Property to photograph, video, install a lawn sign and to show the Property within and without, at reasonable times.
- b) **INQUIRIES:** SELLER agrees to direct all inquiries to the BROKER and shall not list the Property with any other BROKER during the period this contract is in force. Seller represents that at the present time, no other BROKER has a listing of the Property, no other BROKER has been requested or authorized to sell and any previous listing agreement has expired or been terminated.
- c) **DISCLOSURES:** SELLER agrees to complete, sign and return all legally required disclosures within two (2) business days of signing this agreement. SELLER authorizes BROKER to disclose to prospective buyers all information about the Property provided to the BROKER by the seller, all of which the SELLER represents to be



accurate. SELLER acknowledges that the BROKER must disclose to any prospective purchaser or include in published listing data, all information which the BROKER may obtain or discover regarding the Property as required by law.

- d) **USE OF LISTING DATA:** SELLER grants BROKER non-exclusive, royalty free, license to use all photographs, images, videos, drawings, written narratives, pricing information, and any copyrightable elements relating to the Property, ("Listing Data") provided by the SELLER for marketing efforts. SELLER represents ownership of any Listing Data provided to the BROKER and agrees to indemnify and hold BROKER harmless from any and all claims arising from use of the Listing Data. SELLER acknowledges that any Listing Data created by BROKER is owned by the BROKER and SELLER has no right, title or interest in any such content and cannot be used by a third party without the BROKER's written consent. Listing Data may be used for the marketing of the property in the multiple listing service and publicly displayed and reproduced by means of newspaper, television, internet and other media outlets as deemed appropriate by the BROKER. SELLER ☐ **does** / ☐ **does not** consent to allow BROKER to include the physical property address in advertising and marketing representations.

## 7. PROPERTY REPRESENTATIONS:

- a) **LEAD LAW:** For premises built before 1978, SELLER agrees to complete the "Massachusetts Department of Public Health Property Transfer **Lead Paint** Notification" Certification regarding Federal and Massachusetts lead laws and regulations. SELLER acknowledges that the Massachusetts Code of Regulations 40 CMR 745.113(a) mandates that all prospective purchasers be provided this notification form prior to signing a purchase and sale agreement or a lease with an option to purchase. Prospective purchasers have a legal right to a minimum of 10 days to have a lead inspection or risk assessment if desired, except in cases of foreclosure sales. SELLER acknowledges that failure to meet these requirements may result in civil penalties up to \$10,000, possible criminal sanctions, and liability for resulting damages.
- b) **RIGHT TO FARM:** SELLER acknowledges that the property ☐ **is** / ☐ **is not** located in a community that has adopted a Right to Farm bylaw and will comply with any disclosure notification requirements as may be required prior to the sale, purchase, exchange or occupancy of such real property.
- c) **BETTERMENT ASSESSMENTS:** SELLER represents that the property ☐ **is** / ☐ **is not** subject to a betterment assessment. If the property is subject to a betterment assessment, the SELLER agrees to pay the total outstanding betterment assessment at the closing unless the Buyer agrees to purchase the property subject to, and assumes the payment of the betterment assessment.
- d) **PERMITS:** SELLER agrees to obtain all necessary permits required by Massachusetts General Law 148 Sections 26F and F1/2 prior to the time of sale or transfer, including approved Smoke and Carbon Monoxide permits and wood, gas, coal, pellet stove or outdoor wood burning furnace permit(s), if applicable.
- e) **SEWAGE DISPOSAL / TITLE 5:** The SELLER represents that the Property ☐ **is** / ☐ **is not** connected to a municipal sewer system. If the Property is served by a septic or other private waste disposal system, SELLER represents that said system is located entirely within the boundaries of the Property, to the best of their knowledge. The SELLER acknowledges their ultimate responsibility to make certain that the system complies with Title 5, pursuant to the State Environmental Code (310 CMR 15.301).
- f) **ENCUMBRANCES:** The SELLER represents that the sale of the property ☐ **is** / ☐ **is not** subject to buyer assumption of third party contractual obligation(s), such as equipment rental agreements.
- g) **SURVEILLANCE:** The SELLER acknowledges that Massachusetts General Laws Ch. 272, § 99 prohibits the use of any device that streams or records audio without a clear notice/consent of the individuals being recorded in advance of the recording. Seller hereby discloses that their home or property ☐ **does** / ☐ **does not** have any surveillance equipment. Further, SELLER will notify the BROKER of a change in the surveillance status prior to any showing. To ensure compliance with the law, BROKER will post notice on the door and in the MLS of any home so equipped before showings to all prospective purchasers and their agents.

## 8. OFFERS:

- a) **WRITTEN OFFERS:** BROKER shall submit for the SELLER's consideration all written offers. SELLER agrees that once he/she has entered into a Purchase and Sale Agreement with a buyer and during the pendency of said agreement, BROKER shall have no obligation to continue to market or show the Property.
- b) **PROSPECT NOTICE:** SELLER authorizes the BROKER to disclose to prospective buyers whether an offer has been submitted on the Property and whether an offer is from a buyer introduced to the Property by the listing agent, by another licensee associated with the BROKER, or by a cooperating broker. Disclosure of the price and other terms of any offer shall remain confidential until closing, unless authorized by the SELLER in writing.
- c) **DEPOSIT MONIES:** The BROKER is authorized to accept an earnest money deposit on the SELLER's behalf. SELLER authorizes the BROKER to deduct the commission at the closing from the initial deposit or any subsequent deposit. This contract shall be deemed an order for the payment of such commission by any person





in possession of such deposit(s). In the event the Buyer defaults and the SELLER is entitled to retain said deposit, the BROKER shall be entitled to retain one-half (1/2) of the Seller's retained damages, up to an amount not exceeding the full brokerage fee due, in payment of services, advertising, and other expenses.

**9. PROTECTION PERIOD:** If the Property is sold, rented, transferred or exchanged by SELLER within \_\_\_\_\_ days after the expiration of this contract (the "Protection Period") to any person or entity to whom the Property had been presented or shown during the term of this contract, by any person or entity whatsoever, SELLER agrees to pay the BROKER the same commission as if such sale had been made during the term of the contract. SELLER shall not be obligated, however, to pay such compensation, if a valid listing agreement is entered into during the term of the Protection Period with another licensed real estate BROKER and a sale, rental, transfer or exchange of the Property is made during the term of the Protection Period, unless SELLER has entered a written Right of First Refusal or Option Agreement as defined in Paragraph 11 and the property is sold to said Party, in which case SELLER shall compensate the BROKER as provided in Paragraph 11.

**10. RETAINER:** To defray the out-of-pocket costs incurred by BROKER in preparing a brochure, advertising and other marketing activities, SELLER agrees to pay BROKER a non-refundable marketing payment of \_\_\_\_\_. If BROKER becomes entitled to any brokerage fee under this contract, the non-refundable marketing payment will be credited against such brokerage fee, to a maximum of one-half percent credit of total commission percentage.

**11. OPTIONS/LEASES:** If SELLER grants a right of first refusal or option to purchase the Property, SELLER shall pay BROKER \_\_\_\_\_% of the sale price upon the sale of the Property. If SELLER executes a lease of the Property, SELLER shall pay BROKER annually, in advance, \_\_\_\_\_% of the total annual rental payments to be collected by SELLER, each year, for a period not to exceed \_\_\_\_\_ years.

**12. BINDING CONTRACT:** This contract shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, personal representatives, legatees, successors, and assigns (collectively "successors"); provided, however, that BROKER shall not assign this contract without SELLER'S prior written consent. SELLER(s) represent possession of 100% ownership right, title and interest in the Property.

- a) **EXTENSIONS:** In the event this Contract is renewed or extended, all of the terms and conditions applicable during the initial term of the contract shall apply with equal force and effect during such renewal or extension, except as otherwise agreed in writing.
- b) **MODIFICATION:** No modification, amendment or deletion affecting this contract shall be effective unless in writing and signed by all parties.
- c) **COLLECTION OF FEES:** If SELLER breaches this contract and suit is brought by BROKER to recover fees and a judgment is awarded in favor of BROKER, BROKER shall be entitled to recover from SELLER all expenses, including reasonable attorneys' fees, incurred as a result of SELLER'S breach. SELLER and BROKER agree that any dispute or claim arising out of or relating to this Agreement shall be submitted to mediation in accordance with the Rules and Procedures of the Homesellers / Homebuyers Dispute Resolution System ("DRS").
- d) **WITHDRAWAL FROM THE MARKET:** In the event SELLER withdraws the Property from the market, SELLER agrees to give BROKER immediate written notice of such withdrawal. With such notice, SELLER agrees to pay BROKER \_\_\_\_\_% of the listed price to defray BROKER effort and marketing costs associated with subject listing. Furthermore, the SELLER acknowledges that withdrawing the property from the market does not constitute a termination of this contract and all provisions shall continue for the duration of the contract as set forth in paragraph 2, including the agreement by SELLER to pay the BROKER the commission stated in paragraph 5 if the SELLER signs an agreement for the sale of the Property prior to the expiration period of this contract, which includes the Protection Period as described in paragraph 9.
- e) **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. Electronically signed and delivered documents and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures and ~~In the event that any signature is delivered by facsimile transmission, e-mail delivery of a ".pdf" format data file, or through a secure electronic signature service, such signatures shall create a valid and binding obligation of the party(s) executing (or on whose behalf such signature is executed).~~ ~~with the same force and effect as if such facsimile or electronic signature page were an original thereof.~~

**13. ADDITIONAL TERMS:** ☐ See attached addendum(s), incorporated here by reference.

**14. THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK LEGAL COUNSEL.** SELLER has read this Contract and hereby acknowledges receipt of a copy of same.



\_\_\_\_\_  
**SELLER:** **DATE**

\_\_\_\_\_  
**AUTHORIZED BROKER** **DATE**

\_\_\_\_\_  
**SELLER:** **DATE**

\_\_\_\_\_  
**For:**  
**BROKERAGE NAME**



**STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE  
PURCHASE AND SALE AGREEMENT**

<b>► PARTIES:</b>	<b>SELLER(S)</b>	<b>BUYER(S)</b>
Name(s)	_____	_____
Address	_____ _____ _____	_____ _____ _____

► **2. DESCRIPTION:** Subject to the terms and conditions hereinafter set forth, the SELLER agrees to sell and the BUYER agrees to buy SELLER's real property located at \_\_\_\_\_ as more particularly described in a deed dated \_\_\_\_\_ and recorded in the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, or Land Court Certificate # \_\_\_\_\_ Assessor's Map # \_\_\_\_\_ Section # \_\_\_\_\_ Lot # \_\_\_\_\_ (the "Property").

► **3. PURCHASE PRICE:** For the Property, BUYER shall pay the "Purchase Price" sum of .....\$  
of which an initial deposit has been paid on this day in the amount of .....\$  
and on \_\_\_\_\_ date, an additional deposit in the amount of .....\$  
will be paid, resulting in a balance to be paid in the amount of .....\$  
in **cash**, wired funds or by certified / bank check at the Closing.

3.1 Escrow: All deposits are to be held by the Listing Broker \_\_\_\_\_  
("Escrow Agent") in a non-interest bearing escrow account, unless otherwise specified herein.

► **4. CLOSING DATE:** The Deed is to be delivered and the Purchase Price paid on \_\_\_\_\_ at 2:00 p.m. (the "Closing Date") at the appropriate Registry of Deeds or such other location within the county in which the Property is located, as specified by the BUYER.

► **5. CONTINGENCY TERMS:** The following terms and dates apply to paragraphs 6, 7 8, and 9 as the case may be:

5.1	Mortgage: Amt: _____	Rate: _____	Type: <input type="checkbox"/> Fixed <input type="checkbox"/> Variable	Pts: _____	Yrs: _____
5.1a	<input type="checkbox"/> Cash offer, paragraph 6 not applicable				
5.2	Mortgage and/or Insurance Application Date: _____				
5.3	Inspection Contingency Date: _____				
5.4	Insurance Contingency Date: _____				
5.5	Mortgage Contingency Date: _____				
5.6	Septic System Inspection Date: (if applicable) _____				

**6. MORTGAGE CONTINGENCY:** The BUYER's obligations hereunder are contingent upon the BUYER's obtaining a written commitment letter from a conventional mortgage lender for a loan consistent with the contingency term used. Should the BUYER be unable to obtain such a commitment letter despite diligent efforts, BUYER may cancel this Agreement by submitting a written cancellation notice and a copy of the mortgage denial letter to the Listing Broker or Seller's Attorney, no later than 5:00 p.m. on the applicable Contingency Date indicated in paragraph 5, whereupon all obligations of the parties under this Agreement shall cease and BUYER's deposits shall be promptly returned in full. BUYER's failure to (a) give such written notice or (b) make a good faith mortgage application by the Mortgage Application Date shall be a waiver of the BUYER's right to cancel under this Paragraph.

**7. INSURANCE CONTINGENCY:** The BUYER's obligations hereunder are contingent upon the BUYER's satisfaction with the insurability of the property. BUYER should consult with their lender and insurance carrier to determine the insurance coverage required for the Property and the premiums for such insurance coverage. BUYER's mortgage lender may require the purchase of additional flood insurance if they determine the property is located in Special Flood Hazard Area (SFHA). Past coverage or premiums paid by the SELLER are not an indication of the BUYER's insurance obligations for the property. The requirements and cost of homeowner and flood insurance include, but are not limited to, property attributes, risk ratings, applicant's credit rating and policy limits and must be individually determined by the insurance carrier. Should the BUYER be unable to obtain a





satisfactory insurance binder despite diligent efforts, BUYER may cancel this Agreement by submitting a written cancellation notice and a copy of proof of insurance application to the Listing Broker or Seller's Attorney, no later than 5:00 p.m. on the Insurance Contingency Date indicated in paragraph 5, whereupon all obligations of the parties under this Agreement shall cease and BUYER's deposits shall be promptly returned in full. BUYER's failure to (a) give such written notice or (b) make a good faith insurance application by the Insurance Application Date shall be a waiver of the BUYER's right to cancel under this Paragraph.

**8. INSPECTION CONTINGENCY:** The BUYER and BUYER's consultants shall have the right of access to the Property for the purpose of conducting a home inspection, at reasonable times, upon twenty-four (24) hours advance notice to the SELLER's Agent. Inspections may, at BUYER's option and expense, include but are not limited to: inspections for structural and mechanical matters, pests, including wood-boring insects, lead paint, mold, asbestos, radon gas, other hazardous substances, underground tanks, septic system, well water, wetlands and environmental conditions **and building code compliance**. Should BUYER receive an unsatisfactory inspection, BUYER may cancel this Agreement by written notice received by the Listing Broker or Seller's Attorney no later than 5:00 p.m. on the Inspection Contingency Date, whereupon all obligations of the parties shall cease and BUYER's deposits shall be promptly returned in full. BUYER's failure to give such notice shall be a waiver of BUYER's right to cancel under this Paragraph. In consideration of BUYER's right to inspect and terminate, BUYER acknowledge that by accepting the deed BUYER accepts the condition of the Premises and releases the SELLER, SELLER's Agency and BUYER's Agents, from any and all liability relating to any defects in the Premises including, without limitation, water seepage from any source.

► **9. SEWAGE DISPOSAL / SEPTIC SYSTEM:** SELLER represents that the Property is served by a ☐ **municipal sewer system** / ☐ **septic system** / ☐ **other system as outlined in par 35**. If a septic system is present, the SELLER represents that it ☐ **is** / ☐ **is not** located entirely within the boundaries of the Property, to the best of their knowledge. Further, on or before the Septic System Inspection Date as defined in paragraph 5.6, the SELLER shall provide the BUYER with a Septic System Inspection Report (the "Report") issued less than two (2) years prior to the time of the indicated closing date or less than three (3) years if accompanied by system pumping records that show at least annual pumping during that time. Should the Report indicate that the system is a "failed system" as defined by Title 5 of the State Environmental Code (310 CMR 15.301), the BUYER may, within three (3) days of receipt of Report, cancel this Agreement, and all deposits shall be returned to the BUYER.

► **10. WATER:** SELLER represents that the property is serviced by a ☐ **municipal water system** / ☐ **private water company** / ☐ **well** / ☐ **other as outlined in par 35**. If a well is present, SELLER represents that it ☐ **is** / ☐ **is not** located entirely within the boundaries of the Property and ☐ **does** / ☐ **does not** contain defects known to SELLER. BUYER acknowledges that the local Board of Health may adopt regulations that establish criteria for private well siting, construction, water quality and quantity.

► **11. POSSESSION:** Full possession ☐ **free of all** / ☐ **subject to existing** tenants and occupants shall be delivered at the Closing Date. The Property shall be free of encroachments burdening the Property and of improvements that encroach on adjoining Property, including but not limited to buildings, septic systems, well and driveway, and has sufficient legal access to a public way.

► **12. SURVEY:** SELLER represents that ☐ **new** / ☐ **no new** boundaries are being created by the sale of the Property. If new boundaries are being created, SELLER shall deliver to BUYER at the Closing a survey of the Property, in recordable form. The SELLER shall pay for the preparation and recording of the survey, unless otherwise provided herein.

**13. FIXTURES:** Included in this sale as part of the Property, unless expressly excluded, are the usual fixtures owned by the SELLER and used in connection therewith including but not limited to, if any, furnaces, heaters, oil and gas burners and fixtures appurtenant thereto, built-in ranges, dishwashers and disposals, hot water heaters (if not rented), mantels, electric and other lighting fixtures, chandeliers, venetian blinds and window shades, attached mirrors, automatic door openers (with remote controls), installed air conditioners, wall brackets and hangers, built-in bookcases and shelving, all installed stair carpeting and wall to wall carpeting, drapery rods, curtain rods, plumbing and electrical covers, screens, screen doors, storm and other detached windows and doors, blinds, awnings, bathroom fixtures, towel bars, medicine cabinets, radio and television antennas, satellite dishes, fences, gates, hardy shrubs, and fire and security systems.

- **Appliances** Included: \_\_\_\_\_
- Fixtures Excluded: \_\_\_\_\_



- SELLER represents the following items are **not owned**: ☐ **Propane Tank** / ☐ **Hot Water Heater** / ☐ **Water Treatment System** / ☐ **Security System** / ☐ **Solar Panels** / ☐ **Other as outlined in par 35**. BUYER ☐ **does** / ☐ **does not** agree to assume the rental agreements **for**: \_\_\_\_\_.

**14. ADJUSTMENTS:** Current real estate taxes, water rates, sewer use charges and fuel are to be apportioned as of the Closing Date. Rents are to be apportioned only for the month in which the closing occurs and only when collected by either party. Unpaid rents due SELLER from months prior to the month of the Closing Date, shall be the responsibility of the SELLER to collect. If the real estate tax rate is not set as of the Closing Date, the apportionment of real estate taxes shall be made on the basis of the tax assessed for the most recent preceding year, with a readjustment at the request of either party, when the amount of the current year's rate tax is set. If the amount of the tax is reduced by abatement, the rebate, less the reasonable cost of obtaining it, shall be apportioned between the parties. SELLER or SELLER's attorney shall transmit to Buyer's Attorney, at least ten (10) days prior to the closing date, all mortgage and lien payoffs, municipal apportionments, state conveyance tax, and any other expenses required to be disclosed on the Closing Disclosure. Failure to transmit the expenses defined herein shall constitute SELLER's acceptance of Buyer's Attorney's calculations, performed using all reasonable and obtainable information. Such calculation shall be final and binding upon the parties.

- **15. BETTERMENT ASSESSMENTS:** SELLER represents that the Property ☐ **is** / ☐ **is not** subject to a betterment assessment. If the Property is subject to a betterment assessment, the ☐ **SELLER agrees to pay the total outstanding betterment assessment at the closing** / ☐ **BUYER agrees to purchase the Property subject to, and assumes the payment of the betterment assessment.**

- **16. TITLE:** The Property shall be conveyed by a good and sufficient quitclaim deed unless otherwise specified herein (accompanied by a Certificate of Title, if registered), conveying a good, clear record, marketable and insurable title, free of all encumbrances and exceptions, except:

- a) Real Estate Taxes assessed or to be assessed on the Property to the extent that such taxes then are not yet due and payable.
- b) Federal, state, and local laws, ordinances, by-laws, and rules regulating the use of land, particularly environmental, building, zoning, health, rent control, and condominium conversion laws, if any, applicable as of the date of this Agreement, provided that as of the Closing Date, the Property may be used as of right for single family residential use or, if the Property is/is not a single family residence, the Property may be used as of right for \_\_\_\_\_
- c) Existing rights, if any, in party or partition walls; and
- d) Utility easements in the adjoining ways.

**17. USE OF PROCEEDS TO CLEAR TITLE:** To enable SELLER to make conveyance as herein provided, the SELLER may at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests. Upon request, SELLER shall promptly provide BUYER's Attorney with written payoff instructions from all of SELLER's mortgagees. Said payoff instruction shall be in accordance with Massachusetts General Laws Chapter 183, Section 1, et seq. At closing, BUYER's Attorney shall transmit all of SELLER's payoffs to said mortgagees, and BUYER's Attorney shall be responsible to promptly secure and record the discharges of said mortgages. BUYER's attorney shall be compensated by the SELLER the customary fee associated with securing the discharge or discharges. SELLER shall pay the cost of discharge(s), and SELLER shall reimburse BUYER's Attorney the cost (if any) of overnight mail charges.

**18. EXTENSION:** If, after a reasonable and diligent effort, SELLER is unable to deliver title as defined in paragraph **16** or convey title of the Property as required hereunder, upon notice by either party, prior to the Closing Date, this Agreement shall be automatically extended for 30 days (or if BUYER's mortgage commitment sooner expires to a date one business day before the expiration of such commitment). SELLER shall remove all mortgages, attachments and other encumbrances incurred or assumed by SELLER which secure the payment of money, provided the total amount thereof does not exceed the Purchase Price, and SELLER shall use reasonable and diligent efforts to remove other defects in title, or to deliver possession as provided herein, or to make the Property conform to the provisions hereof. At the end of the extended period, if all such defects have not been removed, or the SELLER is unable to deliver possession, or the Property does not conform to the requirements of this Agreement, BUYER may elect to terminate this Agreement and to receive back all deposits, upon receipt of which all obligations of the parties hereto shall cease.



**19. STANDARDS:** Any title matter or practice arising under or relating to this Agreement which is the subject of a Title Standard or a Practice Standard of The Real Estate Bar Association for Massachusetts shall be governed by said Standard to the extent applicable.

**20. LEAD LAW.** Pursuant to 40 CMR 745.113(a), for premises built before 1978, BUYER acknowledges receipt of the "Department of Public Health Property Transfer Notification" attached to this agreement, regarding the Lead Law. BUYER acknowledges verbal notification of the possible presence of lead hazards and the provisions of the Federal and Massachusetts Lead Laws and regulations, including a ten (10) day right to inspect for dangerous levels of lead. Occupancy of premises containing dangerous levels of lead by a child under six years of age is prohibited, subject to exceptions permitted by law. BUYER further acknowledges that neither the SELLER nor any real estate agent has made any representation, express or implied, regarding the absence of lead paint or compliance with any lead law, except as set forth in writing. BUYER assumes full responsibility for compliance with all laws relating to lead paint removal, if required by law, and related matters (in particular, without limitation, Mass. G.L., c.111, 197), and BUYER assumes full responsibility for all tests, lead paint removal and other costs of compliance. Should BUYER receive an unsatisfactory inspection, BUYER may cancel this Agreement by written notice received by the Listing Broker or Seller's Attorney no later than 5:00 p.m. on the Inspection Contingency Date or twelve (12) days after execution of this agreement, whichever is later, whereupon all obligations of the parties shall cease and BUYER's deposits shall be promptly returned in full.

► **21. STORAGE TANKS:** The SELLER hereby discloses that to the best of SELLER's knowledge, there are ☐ underground oil / ☐ underground propane / ☐ aboveground oil / ☐ aboveground propane / ☐ other as outlined in par 35 / ☐ no storage tank(s) within the boundaries of the Property. Further, the SELLER discloses that any underground tanks ☐ have / ☐ have not been used within the past six (6) months and/or any aboveground tanks ☐ have / ☐ have not been used within the past twenty-four (24) months exclusively for the storage of fuel for consumption of the Property. To the best of the SELLER'S knowledge there has been no release or leakage of oil from such tank(s). BUYER acknowledges that the Massachusetts Board of Fire Prevention has issued regulations found in [527 CMR 9.00] that govern the maintenance, repair, and removal of storage tanks used to contain fuel.

**22. CONDITION OF PROPERTY AT CLOSING:** Upon delivery of the Deed, the Property and all appliances therein and utilities serving the same shall be in their present condition, reasonable use and wear of same excepted. The Property is to be left broom clean and all personal property and rubbish removed. With respect thereto, BUYER shall have the right to walk-through the Property within twenty-four hours prior to the closing and if the sale is completed subsequent to said walk-through or if the walk-through is waived by BUYER, the foregoing condition of the Property shall, as between the BUYER and SELLER and their representatives (if applicable), be conclusively presumed to be acceptable to BUYER regardless of condition.

**23. NOMINEE:** BUYER may require the conveyance to be made to another person, persons, or entity ("Nominee"), upon notification in writing delivered to SELLER at least five days prior to the Date of Closing. The appointment of a Nominee shall not relieve BUYER of any obligation hereunder. Any Note or mortgage or other document to be delivered from BUYER to SELLER shall be executed by or unconditionally guaranteed by BUYER, unless otherwise specified herein.

**24. CLOSING:** Simultaneously with the delivery of the deed, SELLER shall execute and deliver:

- a) Smoke & Carbon Monoxide Detector Certificate of Compliance;
- b) Wood, Gas, Coal or Pellet Stove and/or Outdoor Wood Burning Furnace permit(s), where applicable
- c) Affidavits and indemnities with respect to parties in possession and mechanic's liens to induce BUYER's title insurance company to issue lender's and owner's policies of title insurance without exception for those matters;
- d) A bill of sale for all personal property included as part of the sale, if requested by the BUYER.
- e) ~~A Certificate of Occupancy for any structure that requires it, and in the case of new construction an assignment of any and all builder's, SELLER'S, or manufacturer's warranties on the Property or on any appliances or other property included in the sale.~~
- f) FNMA Vendor's affidavit FNMA 1099;
- g) An affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulation issued thereunder, which states, under penalty of perjury, the SELLER's United States taxpayer identification number, that the SELLER is not a foreign person, and the SELLER's address (the "1445 Affidavit");



- h) Internal Revenue Service Form W-8 or Form W-9, as applicable, with SELLER's tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Service and stating SELLER is not subject to back-up withholding.

**25. RISK OF LOSS-INSURANCE AND DAMAGE PRIOR TO CLOSING:** Prior to the delivery of the Deed, the risk of loss shall be on the SELLER. SELLER shall continue to carry the fire and extended coverage insurance presently maintained on the buildings on the Property.

**26. ACCEPTANCE OF DEED:** Acceptance of the deed by BUYER shall be a full performance and shall discharge every agreement and obligation herein except any agreements which by their terms are to be performed after the Closing. THE BUYER FURTHER ACKNOWLEDGES THAT THE BUYER IS PURCHASING THE PROPERTY 'AS IS' and BUYER has not relied upon any statements or representations, oral or written, regarding the condition or value, present or future, of the Property made either by the SELLER or the SELLERs Agents, which are not otherwise contained in this Agreement and that the SELLER's Agents are acting exclusively upon behalf of the SELLER. All oral or written representations between the parties are merged herein. BUYER further acknowledges it is the BUYER'S responsibility prior to closing to obtain any and all governmental permits for any intended use of the Property including, but not limited to, health or environmental department, planning or zoning board approvals. SELLER and SELLER'S representative(s) make no representations as to the adequacy of the Property being conveyed for BUYER'S intended purposes, disclosed or undisclosed.

**27. MERGER:** The parties agree that this Agreement contains all of the terms and conditions of this transaction. It is mutually agreed that any oral or prior written representation made by either party prior to the execution of this Agreement is null and void. This Agreement shall be construed as a legal contract under seal and is binding upon the parties, and their respective heirs, successors, and assigns.

**28. SURVIVAL:** Notwithstanding any presumptions to the contrary, all covenants, conditions, and representations contained in this Agreement, which by their nature, implicitly or explicitly, involve performance in any particular manner after the Closing and delivery of the deed, or which cannot be ascertained to have been fully performed until after the Closing and delivery of the deed, shall survive the Closing.

**29. TERMINATION:** In the event the BUYER terminates this Contract in accordance with the provisions herein relating to "Mortgage / Insurance Contingency," "Risk of Loss Insurance," "Inspection Contingency," "Septic System Inspection", default by SELLER, or the failure of any contingency shown under special conditions, the Escrow Agent shall forthwith refund such deposit money together with accrued interest thereon (if applicable) to the BUYER.

- **30. BUYER'S DEFAULT:** If the BUYER defaults, BUYER shall be liable to the SELLER in the amount of \_\_\_\_\_ of the purchase price, as liquidated damages, which shall be SELLER's exclusive remedy in law or in equity. The deposits shall be applied to the payment of said liquidated damages.

**31. RELEASE OF DEPOSITS:** The deposits (which term shall include all interest earned, if any) made hereunder shall be held in escrow, subject to the terms of this Agreement and shall be duly accounted for at the time for performance of this Agreement. The deposits may not be released from escrow without the assent of both BUYER and SELLER. The recording of the deed to the Property shall constitute such assent. In the event of any disagreement, the Escrow Agent shall retain the deposits pending written instructions by both the SELLER and BUYER, or by a court of competent jurisdiction. So long as Escrow Agent served in good faith, BUYER and SELLER each agrees to hold harmless Escrow Agent from damages, losses, or expenses, arising out of this Agreement or any action or failure to act, including reasonable attorney's fees, related thereto. BUYER and SELLER acknowledge that the Escrow Agent may be counsel or fiduciary to one of the parties and agree that Escrow Agent may continue to act as such counsel or fiduciary notwithstanding any dispute or litigation arising with respect to the deposits or Escrow Agent's duties.

**32. AGREEMENT TO MEDIATE DISPUTE OR CLAIMS:** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement, or the brokerage services provided in relation to this Agreement shall be submitted to mediation in accordance with the Rules and Procedures of the Homesellers / Homebuyers Dispute Resolution System ("DRS"). Disputes and claims shall specifically include, without limitation, representations made by the SELLER, the BUYER, or the Broker(s) in connection with the sale, purchase, finance, condition, or other aspect of the Property to which this Agreement pertains, including without limitation, allegations of concealment, misrepresentation, negligence and / or fraud. If the parties reach a settlement, they shall both sign a settlement agreement. If the parties cannot reach a mutually agreeable settlement, they may arbitrate or litigate the dispute



without regard to the mediation procedure. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the right to mediate under this paragraph, nor shall such filing constitute a breach of the duty to mediate. The provisions of this paragraph shall survive the closing.

**33. GOVERNING LAW:** This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

**34. DISCLOSURES:** BUYER acknowledges that they have been provided with a completed ☐ 'Mandatory Licensee-Consumer Relationship' form ☐ Lead Paint Property Transfer Notification Certification (for residences built before 1978); ☐ Home Inspectors Facts for Consumers brochure, prepared by the Office of Consumer Affairs. ☐ Right to Farm disclosure (if applicable). ~~The BUYER acknowledges that there are no warranties or representations on which BUYER relies in making this Offer, except those previously made in writing (duplicate 26)~~

► **35. SPECIAL CONDITIONS / ADDENDA:** ☐ See attached addendum(s), incorporated here by reference.

*Will size to fit on page*

► **36. TERMINATION OF OFFER:** This offer is subject to SELLER(s) execution and delivery of this agreement to BUYER by (time) \_\_\_\_\_ ☐ a.m. / ☐ p.m. and (date) \_\_\_\_\_, after which time this offer is void and terminated, and deposit paid by BUYER shall be returned.

**37. TIME:** Time is of the essence of all provisions of this agreement, unless otherwise specified elsewhere in this agreement. Any reference to "days" shall mean calendar days and is not intended to mean only business days.

**38. COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission, e-mail delivery of a ".pdf" format data file, or through a secure electronic signature service, such signatures shall create a valid and binding obligation of the party(s) executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original thereof.

**39. THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK LEGAL COUNSEL:** Executed under seal by the Parties hereto as of the latter of all dates set forth below, and incorporating all provisions on pages 1 through 6, together with referenced additions, if any.

► 

SELLER:	DATE	BUYER:	DATE
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SELLER:	DATE	BUYER:	DATE
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SELLER's Attorney's Name	BUYER's Attorney's Name
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SELLER's Real Estate Licensee Name	LICENSE#	BUYER's Real Estate Licensee Name	LICENSE#
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SELLER's Real Estate Firm Name	LICENSE#	BUYER's Real Estate Firm Name	LICENSE#
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# Notice of Benefits Available Under M.G.L. Chapter 175M

## Paid Family and Medical Leave

### Beginning on July 1, 2019:

- Employers will deduct payroll contributions from a covered individual's wages or other earnings to fund PFML benefits.

### Beginning on January 1, 2021:

- Covered individuals may be entitled to up to 20 weeks of paid medical leave in a benefit year if they have a serious health condition that incapacitates them from work.
- Covered individuals may be entitled to up to 12 weeks of paid family leave in a benefit year related to the birth, adoption, or foster care placement of a child, or because of a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call to active duty in the Armed Forces.
- Covered individuals may be entitled to up to 26 weeks of paid family leave in a benefit year to care for a family member who is a covered service member with a serious health condition.

### Beginning on July 1, 2021:

- Covered individuals may be entitled to up to 12 weeks of paid family leave to care for a family member with a serious health condition.

**Covered individuals are eligible for no more than 26 total weeks, in the aggregate, of paid family and medical leave in a single benefit year.**

### Who is a Covered Individual Under the Law?

Generally, a worker qualifies as a covered individual and may be eligible for paid family and medical leave if:

- S/he is paid wages by a Massachusetts employer; or
- S/he resides in Massachusetts and is paid for contract services by a Massachusetts entity that is required to report payment for services on IRS Form 1099-MISC for more than 50 percent of its workforce; or
- S/he is a self-employed individual who resides in Massachusetts and chooses to opt-in to the program.

### Job Protection

Generally, an employee who has taken paid family or medical leave must be restored to the employee's previous position or to an equal position, with the same status, pay, employment benefits, length-of-service credit, and seniority as of the date of leave.

*These job protections do not apply to contractors.*

### Weekly Benefits

To fund PFML benefits, employers will deduct payroll contributions from a covered individual's wages or other earnings beginning on July 1, 2019. Covered individuals can apply for benefits beginning in January 2021 through the Department of Family and Medical Leave. A covered individual's average weekly earnings will determine his or her benefit amount, for a maximum weekly benefit of up to \$850.

### No Retaliation or Discrimination

- It is unlawful for an employer to discriminate or retaliate against an employee for exercising any right to which s/he is entitled under the law.
- An employee or former employee who is discriminated or retaliated against for exercising rights under the law may, not more than three years after the violation occurs, institute a civil action in the superior court, and may be entitled to damages of as much as three times his or her lost wages.

### Private Plans

If an employer offers employees paid family leave, medical leave, or both, with benefits that are at least as generous as those provided under the law, the employer may apply for an exemption from paying the contributions. Employees continue to be protected from discrimination and retaliation under the law even when an employer opts to provide paid leave benefits through a private plan.



**If you have questions or concerns about your Paid Family and Medical Leave rights, please contact:**  
**MassPFML@Mass.gov or visit: <https://www.mass.gov/DFML>**

**This notice must be posted in a conspicuous place on the employer's premises.**





MASSACHUSETTS ASSOCIATION OF REALTORS®

# Massachusetts Paid Family & Medical Leave

## Notify your employees and independent contractors



You're required to notify your workforce about the state's PFML program, including the benefits and protections that apply to them. [Click here for sample notifications.](#) Proper notification includes:

- Displaying the Paid Family and Medical Leave [workplace poster](#) in a highly-visible location
- Providing written notice of contributions, benefits, and workforce protections to Massachusetts W2 employees and Massachusetts 1099-MISC contractors
- Collecting signed acknowledgments of receipt of such notice from Massachusetts W2 employees and Massachusetts 1099-MISC contractors

### Who's a covered individual?

- W2 employees will always count as covered individuals
- 1099-MISC contractors count toward your total number of covered individuals only if they make up more than 50 percent of your total workforce (W2 employees and 1099-MISC contractors combined). [This covers most real estate brokerages.](#)



## What's my Contribution as a Broker?

### How much do I owe for each covered individual?

**0.63% of the gross wages or other payments to all covered individuals in your workforce.** That's **0.52% for medical leave** and **0.11% for family leave**. You are responsible for remitting contributions on their behalf through the Department of Revenue's MassTaxConnect by October 31, 2019.

### Of that 0.63%, how much am I required to pay?

**If your workforce included an average of 25 or more covered individuals last year, you are required to pay:**

**60%** of the medical leave contribution, which is 0.52% of a covered individuals' gross pay.

**0%** of the family leave contribution, which is 0.11% of a covered individuals' gross pay.

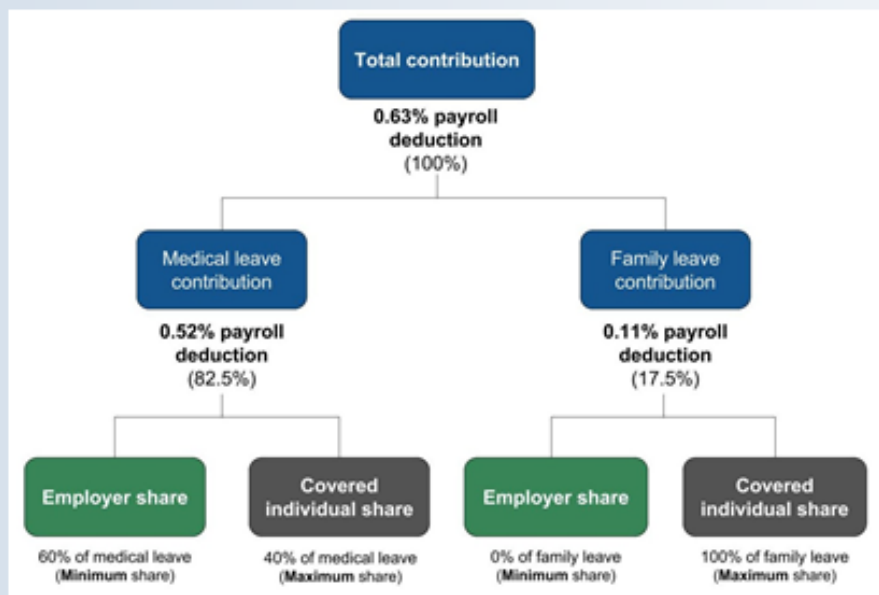
You can deduct the rest of the remitted contribution from your covered individual's wages.

**If your workforce included an average of fewer than 25 covered individuals last year, you are not required to pay the 60% of the medical leave contribution and can deduct all of the rest from the covered individuals's wages.**

### Who counts as a covered individual?

- All MA W-2 employees
- MA 1099-MISC contractors **if** they make up over 50% of your total workforce (MA employees + MA contractors)

# Visual Breakdown of Contributions

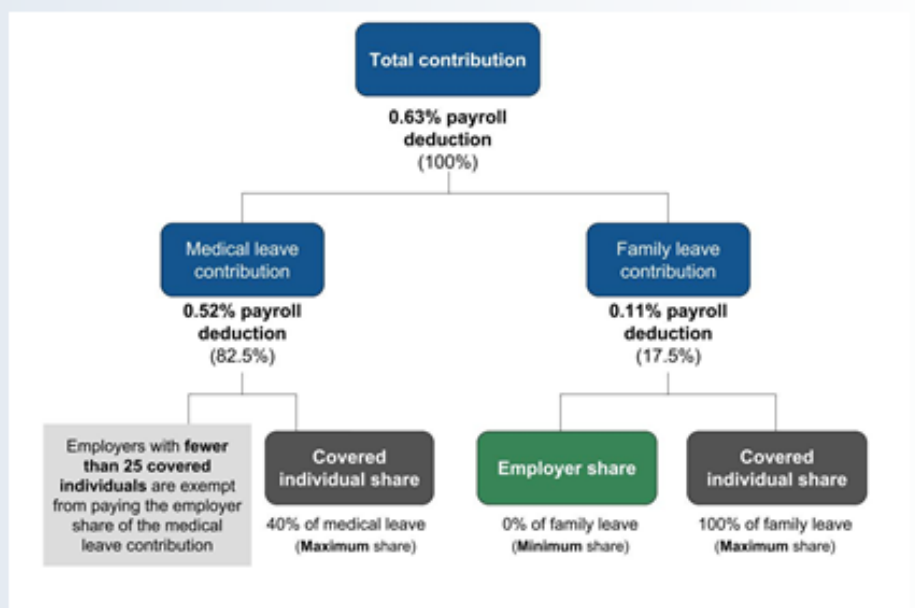


## More Than 25 Employees

Employers with 25 or more employees will be required to remit a contribution to the Department of Family and Medical Leave of 0.63 percent of eligible payroll. This contribution can be split between employee payroll deductions and an employer contribution and will support both types of leave.

## Fewer Than 25 Employees

Employers with fewer than 25 employees must remit contributions to the Department of Family and Medical Leave but are not responsible for paying the employer's share.



## Begin making PFML Tax payments on July 1, 2019

Start deducting family and medical leave payroll contributions for all your MA W-2 employees and MA 1099-MISC contractors. No matter the size of your workforce, you are responsible for remitting contributions on your covered individuals' behalf.

[Click here to register with MassTax Connect](#)



It is important to ensure that your office is prepared to be in compliance on July 1, 2019. The Legal Department at the Massachusetts Association of Realtors® will continue to keep Realtors® informed of any changes to this law. Any questions you have may be directed to the Legal Hotline at 800-370-5342.

Buyers and sellers need to exercise extreme caution when wiring funds in real estate transactions. Criminals/hackers target email accounts of real estate brokers and salespersons as well as other parties involved in real estate transactions, including mortgage brokers, closing attorneys, and title agents. In many cases, they have been able to intercept emailed wire transfer instructions, obtain account information and, by altering some of the data, use emails to redirect the funds to a different account. These emails are convincing and sophisticated and may look like legitimate emails from parties in the transaction.

**In each real estate transaction, Buyer and Seller are advised to:**

- **Never wire funds without personally speaking with the intended recipient of the wire to confirm the routing number and account number.**
- **Verify that the contact information is legitimate. Buyer and seller should call using a phone number that is independently obtained and not use the number in an email.**
- **Never send personal information such as social security numbers, bank account numbers and credit card numbers, unless it is through secured/encrypted email or personal delivery to the intended recipient.**
- **Take steps to secure the system you are using with your email account such as using strong passwords and secure WiFi.**

**If you believe you have received questionable or suspicious wire instructions, immediately notify your bank, the escrow agent, and your Realtor®.**

By signing below, you acknowledge that you have read and understand and have received a copy of this Wire Fraud Advisory.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
☐ SELLER / ☐ BUYER (check one)

\_\_\_\_\_  
☐ SELLER / ☐ BUYER (check one)

## 1. SHORT-TERM RENTAL LAW PASSED 2019

Massachusetts adopted a law taxing and regulating the short-term rental market. This law expands the state's hotel and motel tax to include the short-term rental of homes (condominiums, single family, multifamily, etc.). Massachusetts is one of the last states to adopt this type of tax. The tax applies to all rentals for a period of 31 days or less, regardless of whether the rental is for recreational, personal, or business use.

The law exempts from tax any 2019 rental that is booked on or before December 31, 2018. Rentals booked on or after January 1, 2019 for stays on or after July 1, 2019 will be subject to the tax.

## 2. SHORT-TERM RENTAL COMMUNITY IMPACT FEE DISCLOSURE

Cities or towns may impose a community impact fee of up to three (3%) percent of the total amount of rent for each occupancy transfer of short-term rentals in the following circumstances. Each city or town can vote to impose no fee, a fee on one of the following conditions, or a fee on both conditions:

1. Two (2) or more short-term rentals are operated by the same proprietor, lessee, sublessee, mortgagee in possession, or licensee are located in the same city or town, but not within a single-family, two-family, or three-family dwelling that includes the operator's primary residence.
2. The short-term rental unit is located within a two-family or three-family dwelling that includes the operator's primary residence.

Check with your municipality to see what, if any, fee your city or town imposes. Operators are required to pay community impact fees monthly to the municipality.

## 3. SHORT-TERM RENTAL 14-DAY TAX EXEMPTION DISCLOSURE

A proprietor, lessee, sublessee, mortgagee in possession, or licensee operating a short-term rental for 14 days or less in a calendar year is not subject to the short-term rental tax, provided they have:

1. registered with the commissioner of the MA Department of Revenue; and
2. annually filed a signed declaration with the commissioner, setting forth the intention to transfer the short-term rental for not more than 14 days in a calendar year.

If the short-term rental operator transfers the short-term rental for 15 days or more in the same calendar year, or fails to register and file a declaration, then they will be liable for the payment of the short-term rental tax, including payment of required taxes and fees on the first 14 days the short-term rental was transferred in the calendar year.



## 4. SHORT-TERM RENTAL INSURANCE DISCLOSURE

A person who uses property(ies) of which they are the proprietor, lessee, sublessee, mortgagee in possession, or licensee to operate a short-term rental(s) is required to either:

1. maintain at least \$1,000,000 in liability insurance for each short-term rental that defends and indemnifies them and any tenants or owners in the building for bodily injury and property damage arising from the short-term rental; or
2. offer their short-term rental through a hosting platform that maintains equal or greater coverage.

Standard homeowners or renter's insurance may not cover property damage or bodily injury to a third-party arising from the short-term rental.

## 5. SHORT-TERM RENTAL REGISTRY DISCLOSURE

Each rental unit will need to be listed with the state short-term rental registry. Additionally, each city and town is permitted to create a registration requirement for short term rentals. Check with your municipal government office for details.

## 6. SHORT-TERM RENTAL INSPECTION DISCLOSURE

Cities and towns may implement a health and safety inspection requirement and set the frequency of inspections. Short-term rental operators are required to cover the cost of inspections and will likely face a fee to cover registration costs as well.

**All buyers, homeowners or property owners in the state of Massachusetts must seek information directly from the municipality where the property is located to determine impact fees, registry requirements, inspections and any other short-term rental regulations within the city/town. This disclosure is strictly a notice that a new law was passed that could impact the short-term rental regulations of a property located in the Commonwealth of Massachusetts.**

- **7. ACKNOWLEDGMENT:** I acknowledge receipt of this Short-Term Rental Disclosure Notification.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Today's Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Today's Date

