

LEGAL ACTION FUND OF  
Florida Realtors®

EXECUTIVE SUMMARY: The Legal Action Fund of Florida Realtors® is available to members, local Boards/Associations of REALTORS® or those persons involved in litigation that has significance to REALTORS® and REALTOR®/Associates as a class, private property rights, or the real estate industry as a whole. Cases shall be limited to those based on points of law and not on factual issues. The Legal Action Fund is administered by the Legal Action Fund Committee within approved guidelines and procedures.

I. PURPOSE

The purposes for which the Legal Action Fund of Florida Realtors® (hereinafter referred to as "LEGAL FUND") is created are:

- A) To promote among member Boards/Associations and individual members an understanding of their rights and duties under local, state and federal law, and to defray the expense of legal advice to that end;
- B) Under appropriate circumstances, to provide assistance by counsel of the State Association to the counsel of contributing member Boards/Associations on matters relating to anticipated or pending litigation in state or federal court or before a local, state or federal agency;
- C) Under appropriate circumstances, to provide legal assistance to member Boards/Associations or individual members when litigation is anticipated or pending either in federal or state court or before a local, federal or state agency because of actions undertaken pursuant to the direction of the governing body of said member Board/Association in accordance with procedures adopted or recommended by the State or National Association;
- D) Under appropriate circumstances, to defray all or a portion of the cost and legal fees of litigation in a state or federal court or before a local, state or federal agency in which a member Board/Association or an individual member is a party;
- E) To defray the cost and legal fees in those cases in which Florida Realtors® is a party as plaintiff, defendant or intervener or elects to intervene as a friend of the court; and,
- F) Under appropriate circumstances, to provide legal assistance to the officers and directors of Florida Realtors® in litigation, anticipated or pending, in federal or state court or before a federal, state or local agency arising out of the performance of the official duties of those officers and directors.

II. ADMINISTRATION

The LEGAL FUND shall be administered by the Legal Action Fund Team hereinafter referred to as "the Team") of Florida Realtors®. The Committee shall consist of the immediate Past President, the President, the President-Elect, the Treasurer and up to two (2) members at large. The two (2) members at large shall be appointed by the President. The President shall be the Chairman of the Team. The Team shall adopt such forms and regulations as may be necessary to carry out the provisions of this document and the purposes of the LEGAL FUND. The action of the Team shall be subject to review by the Executive Committee.

III. REQUESTS FOR ASSISTANCE

The procedure for a request for assistance under the provisions of the LEGAL FUND shall be as follows:

- A) Any individual member may request assistance. Any request for assistance by Board/Association members shall be made through that member's Board/Association. If the individual is not a member of any local Board/Association, then any request for assistance shall be made to the nearest local Board/Association. The request for assistance shall be accompanied by a written statement setting forth, in proper form, the pertinent details concerning the matter involved and the significance of the issues for REALTORS® as a class or for the real estate industry as a whole, which are based on law not fact, together with copies of all legal papers and documents relating to the matter. Said statement shall be prepared by the applicant's attorney and shall contain an estimate of the cost of litigation.
- B) Upon receipt, the local Board/Association shall review each request for assistance. If it should appear to the local Board/Association that the litigation or proceeding is one involving issues which affect REALTORS® as a class or the real estate industry as a whole, and if it appears that the applicant is in good faith and deserving assistance, the local Board/Association shall cause such application, with all supporting data and documents, to be forwarded to the office of Florida Realtors® with a letter of transmittal stating the action of support by the Board of Directors of the local Board/Association.
- C) In those instances in which the local Board/Association itself or its officers or directors are involved in such litigation or administrative proceeding, anticipated or pending, the same procedures shall be followed as set forth for individual members.
- D) When an application for assistance from a local Board/Association or from an individual member, duly endorsed by the local Board/Association, has been received at the office of Florida Realtors®, the Law & Policy Group shall review such application to ensure that it is in proper form and complete. Upon making such determination, the Law & Policy Group shall submit in timely fashion the application to the Committee for its consideration.
- E) The Law & Policy Group shall render a written legal opinion as to the facts and merits of the case and whether it conforms to the criteria for support of the Association.
- F) Having duly considered the application, the Committee shall, by a majority vote:
  - 1) Determine that it is appropriate to request assistance from the National Association of REALTORS® and forward the application and all supporting documents to the National Association of REALTORS® and forward the application along with a letter of transmittal approving the application and requesting immediate assistance for the applicant; or
  - 2) Determine that requesting assistance from the National Association of REALTORS® is inappropriate and grant assistance as it sees fit, subject to such conditions as it may impose; or
  - 3) Request assistance from the National Association of REALTORS® as is provided in (1) above and grant assistance as it sees fit, subject to such conditions as it may impose; or
  - 4) Return the request to the applicant for further documentation and timely resubmission; or
  - 5) Reject the application and deny assistance.
- G) In the absence of a request for assistance from a local Board/Association, or any individual member, and upon the recommendation of the President, the Committee may authorize the

expenditure of funds for any purposes enumerated in the "PURPOSE" section or the "EXECUTIVE SUMMARY".

#### IV. CONDITIONS OF PARTICIPATION

Unless other requirements or conditions are imposed or approved by the Committee, all applicants receiving financial assistance from the LEGAL FUND must comply with the following unless waived by the Committee:

- A) If the applicant is involved in litigation, he shall certify his intent to pursue the matter to final judgment.
- B) If the applicant is a defendant in a legal proceeding, he shall certify that he will assert a common defense with other FAR members who are co-defendants or who are likely to be made co-defendants in the action.
- C) If the applicant is a defendant in a legal proceeding, he shall certify that he will not file a cross-action against any FAR member.
- D) If the applicant is a defendant in a legal proceeding and other FAR members are co-defendants or likely to become co-defendants, the applicant shall certify that financial assistance received from the LEGAL FUND will be shared equally among the applicants and said co-defendants.
- E) The applicant shall certify that he/she will not settle the case prior to conferring with FAR legal counsel and gaining committee approval, said approval not being unreasonably withheld. The applicant shall further certify that, in the event he/she ultimately settles the case without Committee approval, the applicant shall reimburse the LEGAL FUND for all financial assistance received. In considering the applicant's request to settle the case, the Committee shall consider the importance of the case as it affects FAR and its membership, and whether such settlement will be in degradation of any substantial interests or rights of FAR and its membership. In the event the Committee shall approve such settlement, the Committee shall have the right to condition its consent upon reimbursement by applicant of all monies expended by the LEGAL FUND in connection with the case.
- F) The applicant shall certify that, in the event he recovers any portion of his attorneys fees and/or other litigation expenses from any source, the applicant will reimburse the LEGAL FUND for financial assistance received by the amounts that were covered, not to exceed the total amount of financial assistance received. The Florida Realtors® LEGAL FUND will be reimbursed first, before any other contributor.**
- G) Before receiving any financial assistance from the LEGAL FUND, the applicant shall bear the initial cost for attorney's fees and litigation expenses in an amount to be determined by the Committee. The applicant shall certify that this amount has been paid by him before receiving financial assistance from the LEGAL FUND.
- H) If the applicant is a local Board/Association, the Board/Association shall agree to share the cost of the legal proceeding on a percentage basis with the LEGAL FUND. For the purposes of this subsection, the percentage share so expended by the local Board/Association shall not include funds expended on the Board/Association's behalf by an insurance carrier.

#### V. REQUESTS FOR NAR PARTICIPATION

Requests for assistance from the Legal Action Fund of the National Association of REALTORS® shall be submitted for consideration by the Committee in the same manner as provided herein for requests for

assistance from the LEGAL FUND. After due consideration, the Committee shall forward said request(s) to the National Association of REALTORS® along with its recommendations regarding same.

VI. REPORTING

Action taken by the Committee must be ratified by the Executive Committee at its next regularly scheduled meeting.

VII. MISCELLANEOUS

The LEGAL FUND should in no way be considered by member Boards/Associations or by an individual member as a substitute for errors and omission insurance or for any other protection programs at the local, state or national level, nor shall the LEGAL FUND be used to pay judgments for damages or fines.

Any contribution to the LEGAL FUND shall not create any vested rights in the LEGAL FUND nor shall any right of reimbursement be created by such contribution.

The applicant is responsible for supplying status reports to the LEGAL FUND each month. Furthermore, the applicant's attorney will forward all bills to his/her local Board/Association, with a copy going to the applicant.

THE LEGAL FUND  
Florida Realtors®  
APPLICATION FOR FINANCIAL ASSISTANCE

REQUESTING MEMBER BOARD: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPLICANT

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone (Office): \_\_\_\_\_

ATTORNEY FOR APPLICANT

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone (Office): \_\_\_\_\_

CASE

Style: \_\_\_\_\_

Court: trial/appellate/supreme

Case Number: \_\_\_\_\_

Stage of Litigation: discovery/trial/appeal  
other: \_\_\_\_\_

Anticipated Trial Date: \_\_\_\_\_

ISSUE

- \_\_\_\_\_ antitrust
- \_\_\_\_\_ commission dispute
- \_\_\_\_\_ discrimination
- \_\_\_\_\_ internal revenue service
- \_\_\_\_\_ multiple listing service

- \_\_\_\_\_ solicitation/advertising
- \_\_\_\_\_ unauthorized practice of law
- \_\_\_\_\_ unemployment insurance
- \_\_\_\_\_ worker's compensation
- \_\_\_\_\_ other (specify) \_\_\_\_\_

SUMMARY OF FACTS

(A) Plaintiff's Allegations:

(B) Defendant's Allegations:

SUMMARY OF LEGAL ISSUES

(A) Plaintiff's Legal Theory of Recovery:

(B) Defendant's Legal Theory of Defense:

ESTIMATED LITIGATION EXPENSES INCLUDING ATTORNEY FEES\*

- \* Requests for assistance in complex litigation shall be accompanied by an estimate of total litigation expense categorized by the nature of each litigation state answer, discovery, etc., and the anticipated time table for each state when advisable, the LEGAL FUND shall allocate approved funds for specific purposes.

Discovery: \_\_\_\_\_

Trial: \_\_\_\_\_

Appeal: \_\_\_\_\_

Other: \_\_\_\_\_

ERRORS & OMISSIONS INSURANCE

Yes \_\_\_\_\_

No \_\_\_\_\_

CERTIFICATION BY APPLICANT:

Upon making application to the LEGAL FUND for assistance, I do hereby agree to comply with the Rules and Regulations of the LEGAL FUND and do hereby acknowledge that such compliance is a condition to the receipt of any assistance.

Signed: \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_

PLEADINGS:

Attach to this Application Plaintiff's Original Petition, Defendant's Original Answer, and any other documentation which may be of assistance to the LEGAL FUND in making a decision regarding this Application.

CERTIFICATION BY ATTORNEY FOR APPLICANT:

I have assisted Applicant in preparing this Application and do hereby certify that to the best of my knowledge the information contained herein is accurate. If assistance is granted, I agree to provide status reports to the LEGAL FUND along with such other information as may be reasonably required.

Signed: \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_

LOCAL BOARD COMMENTS:

(A) Our Board/Association of REALTORS® by official action by our Board of Directors (copy of minutes attached): (check one)

**does** recommend that this matter be approved for assistance from the FAR LEGAL FUND and agrees to match the amount of legal fees offered by the Fund.

**does not** recommend that this matter be approved for assistance from the FAR LEGAL FUND.

Signature: \_\_\_\_\_  
Board/Association President

(B) Other Comments:

Does your Board/Association sponsor antitrust compliance training programs and have you attended?

Does your Board/Association sponsor equal opportunity in-housing training programs and have you attended?



EVALUATION OF APPLICANT'S CHANCES OF PREVAILING:

(A) Attorney for Applicant:

(B) Attorney for Board:

Summary of legal issue(s) which are of significance to the real estate industry of REALTORS® as a class: