



2025 Legal & Professional Standards Update

Closing Session // Tuesday, August 26, 2025

Florida Realtors® Law & Policy



Antitrust Statement

Florida REALTORS® is devoted to improving the competitive business conditions of the real estate industry. This meeting may include real estate professionals and other industry stakeholders who compete with each other or work for competing businesses.

Florida REALTORS® is committed to conducting all meetings and events in a professional, ethical, and lawful manner, including in adherence to all antitrust laws. To that end, the topics for this meeting will focus on advancing the interests of real estate professionals and consumers of real estate services, increasing competition, reducing risk for all parties involved in real estate transactions, and sharing insights on business best practices.

The following discussion topics are always prohibited: agreements to fix prices, limit product or service offerings, allocate geographical territory or customers, and refuse to deal. Any discussion inconsistent with this policy will not be tolerated.



Settlement Update

Juana Watkins, RCE
General Counsel and VP of Law & Policy
Florida Realtors



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

RHONDA BURNETT, JEROD BREIT,)
HOLLEE ELLIS, FRANCES)
HARVEY, and JEREMY KEEL,)
individually and on behalf of all others)
similarly situated,)

Plaintiffs,)

v.)

THE NATIONAL ASSOCIATION OF)
REALTORS, et al.)

Defendants.)

Case No. 19-CV-00332-SRB

**UPDATE FROM CO-LEAD COUNSEL ON ENFORCEMENT OF
THE NATIONAL ASSOCIATION OF REALTORS SETTLEMENT AGREEMENT**

Co-Lead Counsel for the Settlement Class submit this update on their ongoing efforts to enforce the practice changes outlined in the National Association of Realtors (“NAR”) Settlement Agreement (“NAR Settlement”), ECF No. 1458-1.

The NAR Settlement includes several robust monitoring and enforcement mechanisms. These grant Co-Lead Counsel authority to request proof of compliance from entities bound by the settlement’s practice changes. For Multiple Listing Services (“MLSs”) opting into the NAR



Pursuant to these terms, Co-Lead Counsel have requested proof of compliance from eleven MLSs and fourteen Realtor associations, including some of the largest entities nationwide.¹ See Exs. A; B.² Co-Lead Counsel are diligently reviewing the submitted documentation from these entities to evaluate compliance with the NAR Settlement's practice changes.

This Court retains "jurisdiction over the implementation and enforcement" of the NAR Settlement (NAR Settlement ¶ 82), and Co-Lead Counsel will, if necessary, bring instances of noncompliance to the Court's attention.

Additionally, Co-Lead Counsel participated in a legal seminar hosted by the Council of Multiple Listing Services ("CMLS"), engaging with MLS leaders and their counsel to discuss settlement requirements and compliance. In the coming months, Co-Lead Counsel plan to request proof of compliance from additional MLSs and Realtor associations and will provide further updates on their ongoing enforcement efforts.

Date: July 10, 2025

Respectfully Submitted,

¹ Presently, Plaintiffs have requested proof of compliance with the NAR Settlement from the following MLSs and Realtor associations: Stellar MLS; San Diego MLS; OneKey MLS; Charlottesville Area Association of Realtors; Imagine MLS; Canopy MLS; Northstar MLS; California Regional MLS; Bright MLS; Heartland MLS; Florida Gulf Coast MLS; Long Island Board of Realtors; Georgia Association of Realtors; NC Realtors; Texas Realtors; Pennsylvania Association of Realtors; New Jersey Realtors; Florida Realtors; Minnesota Realtors; California Association of Realtors; Colorado Association of Realtors; Idaho Realtors; New Mexico Association of Realtors; Oregon Realtors; and Rhode Island Association of Realtors.

² Exhibit A shows the information requested from the eleven MLSs and Exhibit B shows the information requested from the fourteen Realtor associations.

11 MLSs

14 Associations





Professional Standards What's New Since June?

Shannon Allen, Esq., RCE, AHWD, CMLX1, C2EX
Director of Local Association Services



CHAMPIONS FOR THE
AMERICAN DREAM
FLORIDA REALTORS® 2025



Lots of Changes Effective June 5th

Living Document Evolves & Changes with the Profession

- Advisory & Interpretations Proposed Changes (80+ pgs)
- Professional Standards Committee Voted (effective immediately)
- NAR BOD Approved

This is Unprecedented!!

THREE 'BUCKETS' OF CHANGES

Change 'bucket' 1

Newsroom

NAR Board of Directors Ratifies Changes to Standard of Practice 10-5 and Professional Standards Policy Statement 29

Updates to Code of Ethics enhance clarity and enforceability

[NAR Media Contacts](#)

[Statistical Release Schedule](#)

[Op-Eds & Letters to the Editor](#)

June 5, 2025

Media Contact: Media Relations



SOP 10-5 Effective June 5, 2025 now reads:

REALTORS®, in their capacity as real estate professionals, in association with their real estate businesses, or in their real estate-related activities, ~~must~~ shall ~~not use harassing speech, hate speech, epithets, or slurs~~ harass any person or persons based on race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity.

As used in this Code of Ethics, harassment is unwelcome behavior directed at an individual or group based on one or more of the above protected characteristics where the purpose or effect of the behavior is to create a hostile, abusive, or intimidating environment which adversely affects their ability to access equal professional services or employment opportunity.



Policy Statement Effective June 5, 2025

PS Policy Statement 29, effective June 5, 2025, reads as follows:

29. Applicability of the Code of Ethics:

While REALTORS® are encouraged to follow the principles of the Code of Ethics in all of their activities, A REALTOR® shall be subject to disciplinary action under the Code of Ethics only with respect to ~~all of their~~ their capacity as real estate professionals, in association with their real estate businesses, or in their real estate-related activities.

Rationale - SOP 10-5 Changes

Changes to SOP 10-5 provide clarity on interpretation

In its previous form, SOP 10-5 presented confusing application to Article 10 because it was broadly written with language not otherwise defined in the Code of Ethics.

- This resulted in legal challenges across the country challenging both the language and application
- The changes create a more specific definition of “harassment,” which aligns with the definition in the NAR Member Code of Conduct and focus Article 10’s application on instances in which REALTORS® are operating in their professional capacity.



Lots More Changes - ALL Effective June 5th



Note: The following eleven Standards of Practice in the Code of Ethics were amended and became effective **June 5, 2025** when approved by the NAR Board of Directors: **SOPs 1-12, 1-13, 1-16, 3-1, 3-2, 3-9, 9-2, 10-1, 10-5, 16-11, and 16-16**. The downloadable resources are below, and pages have been updated to reflect these changes. [View additional background](#) on specific revisions relating to Standard of Practice 10-5 and Professional Standard Policy Statement #29, along with a complete listing of detailed revisions to the Code of Ethics:

Bucket 2 – Settlement Related

Amendments to SOP 1-12, 1-13, and 16-11

- reiterate the **commitments** agreed to in the settlement **agreement** regarding **cooperative compensation** while
- plainly and clearly reaffirming the fact that **broker compensation** remains **fully negotiable**.

Bucket 2 – Settlement Related – cont.

Amendments to SOP 3-1

With offers of cooperative compensation no longer being communicated through the MLS,

- these amendments reflect the post-settlement reality that offers of compensation may be more difficult to ascertain in a timely fashion, especially in fast-moving transactions.
- These amendments allow for necessary flexibility while maintaining the ethical obligation for cooperating brokers to work with sellers and landlords to establish the terms of offers to cooperate.



Bucket 2 – Settlement Related – cont.

Changes to SOP 3-2 and the deletion of SOP 16-16

These amendments retain SOP 16-16's ethical duty that prohibits delaying or withholding an offer while negotiating compensation and move these obligations to SOP 3-2, which similarly addresses negotiation of compensation.

Bucket 3 – Provide Clarity

Changes to SOP 1-16 & 3-9

Clarifies the difference between two similar and often confusing Standards of Practice,

- plainly stating that Standard of Practice 1-16 applies to those acting as listing brokers or property managers,
- while Standard of Practice 3-9 applies to those acting as cooperating brokers or in capacities other than listing brokers or property managers.



Bucket 3 – Provide Clarity – cont.

Changes to SOP 9-2

SOP 9-2 was adopted in 2007 to address ethical concerns with doing business electronically, which was a relatively new practice at the time.

These amendments clarify that a REALTOR®'s ethical duty to make reasonable efforts to explain and disclose terms of a contractual relationship applies regardless of whether business is handled electronically or otherwise.



NAR's website: 2025 Code of Ethics & Standards of Practice

Background Information and Final Versions of Standard of Practice 10-5 and Professional Standards Policy Statement #29, Applicability of the Code of Ethics, Effective June 5, 2025

[Download Final Versions of SOP 10-5 & PS Policy Statement #29](#)  docx (39.32 KB)



NAR's website: 2025 Code of Ethics & Standards of Practice

Details and Rationale for all these changes

➤ See NAR's Website . . .

Download Legislative Style Revisions to the Code of Ethics [↓ docx \(82.31 KB\)](#)



NAR's website: 2025 Code of Ethics & Standards of Practice

Code of Ethics & Standards of Practice Available Online

- Download a PDF of the 2025 NAR Code of Ethics & Standards of Practice, Effective January 1, 2025 [↓ pdf](#) (263.19 KB)
- Download a Word version of the 2025 NAR Code of Ethics & Standards of Practice, Effective January 1, 2025 [↓ docx](#) (43.53 KB)
- Download a PDF of the 2025 NAR Code of Ethics & Standards of Practice, Effective June 5, 2025 [↓ pdf](#) (195.85 KB)
- Download a Word version of the 2025 NAR Code of Ethics & Standards of Practice, Effective June 5, 2025 [↓ docx](#) (45.71 KB)
- Download the 2025 Code of Ethics & Standards of Practice Poster [↓ pdf](#) (767.05 KB)



NAR's website: 2025 Code of Ethics & Standards of Practice

Do not expect NAR to print updated hard copies of the Code of Ethics and Arbitration Manual mid-year

- Visit NAR's Website frequently for ongoing updates

**Takeaway = many Professional Standards Changes
EFFECTIVE JUNE 5th**



Legal Update

August 26, 2025

Maria Marchante

Associate General Counsel, Florida Realtors

Pig Butchering

And Other Scams

- Pig Butchering
 - What is it?
 - The practice of scammers gaining trust and gradually encouraging victims to invest more and more money by showing fake profits to make them feel safe
 - Once the victim is “fattened up” (with promises of high returns and fake success) and all in, the scammers disappear with everything

Pig Butchering

- Per the U.S. Secret Service more than 60 real estate agents in the U.S. have lost a combined \$15 million in cryptocurrency scams
- Real estate professionals are susceptible because they deal in transactions with large amounts of money

Pig Butchering

Scam details:

- Often begin with a seemingly innocent contact
 - Wrong number text or social media message
- Scammer builds a rapport,
- Flaunts fake financial savvy,
- And directs the victim to a fraudulent cryptocurrency platform

Pig Butchering

The goal?

- Drain the victim's bank account one transaction at a time
- The victims are encouraged to start their investment with smaller dollar amounts, with the ability to withdraw funds
- This adds legitimacy and comfort
- Many times, the criminal is using AI to fake the victim into thinking they are working with a legitimate buyer

Pig Butchering

CRYPTOCURRENCY- What is it?

- A type of digital currency
- Bitcoin and Ether are most well known
- But more are created all the time
- Not currently backed by the government
- Volatile



Some Safety Tips

- Brokers should offer AI cybersecurity training- regularly
- Require an in-person meeting when possible
- Don't click, open, or engage with links/attachments without first verifying the sender's identity
- Be cautious of unsolicited investment opportunities offered by phone, email, social media, or in person
- Resist pressure to commit quickly
- Report crimes to the FBI at ic3.gov or to the FTC at reportfraud.ftc.gov



Web Domain Listing Scam

Targeting NAR Members

- Deceptive mailers being mailed out mimicking invoices
- Claim to offer web domains with .realestate address
- These mailers are sent by DomainNetworks.com, NOT NAR



NAR Health Insurance Scam

- NAR is currently investigating reports of an unauthorized 3rd party posing as NAR
- Attempting to sell members health insurance
- NAR will NEVER contact you by phone/text to solicit personal or financial information
- Can report at:
 - insurancescam@nar.realtor

A Few More Scams

Just to be aware of

- Wire fraud
 - Fraudsters impersonate real estate professionals and trick victims into wiring funds into fraudulent accounts
- Fake listing and rental scams
 - Scammers create attractive (but fake!) listings luring in renters to steal deposits



A Few More Scams

Just to be aware of

- Deed fraud and title theft
 - Fraudsters steal personal info and forge documents to illegally transfer property ownership
- Email phishing scams
 - Scammers send fraudulent emails impersonating real estate professionals to steal personal information or payments



A Few More Scams

Just to be aware of

- Virtual kidnapping ransom scam
 - Typically begins with a phone call saying your family member is being held captive
 - Scammers have been spoofing phone numbers and using voices that cry/beg/plead while a demand for money is made



A Few More Scams

Just to be aware of

- Virtual kidnapping ransom scam
 - Many times the scammers are using voice cloning and AI to make the call very precise, manipulative, and convincing



Tips to Protect Yourself

- Verify wire instructions- pick up the phone!
- Be cautious of unsolicited offers
- Protect your personal information
- Use secure communication methods
- Report suspicious activity
- If you receive a kidnapping call, try to slow down the situation to see if you are able to make contact with the alleged victim some other way (a separate phone call, through social media, etc)



CHAMPIONS FOR THE
AMERICAN DREAM
FLORIDA REALTORS® 2025

Condo Docs Review

Rich Swank
Associate General Counsel
Florida Realtors



FloridaRealtors®
The Voice for Real Estate® in Florida

Condo Docs Review

Condo Website Changes - Review

Condo 3.0

- Condo 3.0- HB 1021 (July 1, 2024): New website law – 25 units or more
- Goes into effect on January 1, 2026
- Law covers 92% of all condos in Florida
- Covers many of the same documents required by disclosure to potential buyers- § 718.503, Florida Statutes.

Condo Docs Review

Condo association website must (718.111(12)(g)2. Fla. Stat.):

- Be an independent website accessible through the internet by username and password and owned and operated by the association
- Include (summarized):
 - condo declaration,
 - bylaws of the association plus amendments,
 - articles of incorporation,
 - association rules,
 - list of all association contracts*,
 - annual and proposed budgets,
 - financial report and monthly income and expense statement,
 - certification of directors,
 - meeting notices and agendas,
 - milestone and turnover inspections, SIRS, and building permits.

Condo Docs Review

Condo Declaration*

- An “instrument or instruments by which a condominium is created, as they are from time to time amended.”
§ 718.103(16), Florida Statutes.
- Also known as the master deed, this is the “bible” that takes a parcel and/or building and creates the condominium form of ownership.
- The Declaration sets forth the definition of the units, the common areas, etc.
- It can also set forth the rules for use of the units and common areas and be very complex.

Condo Docs Review

Bylaws Plus Amendments

- “[T]he bylaws of the association, as they are amended from time to time.” § 718.103(7), Florida Statutes.
- Content of condo bylaws: § 718.112, Florida Statutes.
- See also: § 607.0206, Florida Statutes for general definition of corporate bylaws.
- Bylaws “flesh out” the basic principles from the articles of incorporation and can include directors, membership, voting, meetings, etc.

Condo Docs Review

Articles of Incorporation

- Definition found in § 607.0202, Florida Statutes.
- Articles of incorporation create the condominium's corporation.
- Usually basic; establish name, address, shares, purpose.

Condo Docs Review

Rules of the Association

- Rules are part of the official condominium records. § 718.111(12)(a)5., Florida Statute.
- Must be included on website. § 718.111(12)(g)2.d., Fla. Stat.
- May be found in multiple sources including declaration, bylaws, etc.

Condo Docs Review

Association Contracts

- “All contracts for work to be performed.”
- § 718.111(12)(a)11.e. Florida Statutes. Part of the official record.
- See also: § 718.111(12)(g)2.e., i., j., Fla. Stat. for **specific** contracts including contracts with directors and officers.
- This is just a summary – the actual list for the website is very comprehensive.

Condo Docs Review

Annual and Proposed Budget

- Must include annual budget required by § 718.112(2)(f), Florida Statutes.
- Must also include any proposed budget to be considered at the annual meeting.

Condo Docs Review

Financial Report and Monthly Income and Expense Statement

- Financial report is defined in § 718.111(13), Florida Statutes.
- Financial report of preceding year.
- Very comprehensive.
- Website must also include monthly income and expense statements considered at meetings.

Condo Docs Review

Certification of Directors

- Certification by each director of the association board that they have read the condominium documents and completed DBPR's condominium education curriculum.
- § 718.112(2)(d)4.b., Florida Statutes.
- Certification and educational certificate are valid for 7 years.

Condo Docs Review

Meeting Notices and Agendas*

- Meeting notices required by § 718.112(2)(d)3., Florida Statutes.
- Specific association meeting rules may be set forth in bylaws or declaration.
- Members are entitled (encouraged) to attend meetings.
- Actions of association are approved at meetings, including amendments to declaration or rules, changes to assessments, and special assessments, etc.



Condo Docs Review

Milestone Inspection, Turnover Inspection, SIRS, Building Permits

- Milestone Inspection Report: § 553.899, Florida Statutes.
- Turnover Inspection Report: 718.301(4)(p) & (q), Florida Statutes.
- Structural Integrity Reserve Studies: §§ 718.103(28) and 718.112(2)(g)., Florida Statutes.
- Building permits for any work, including work done pursuant to MI or SIRS.

Condo Docs Review

Don't Forget Condo 4.0!

- Went into effect on July 1, 2025.
- Prospective buyers now have “**7 DAYS**, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER” of the condominium documents in which to cancel the agreement.
- “ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.”



Legal Update

August 26, 2025

Joel Maxson

Associate General Counsel, Florida Realtors

Statutory Flood Disclosures

General Seller Disclosure

- The central seller disclosure rule comes from the Florida Supreme Court case Johnson v. Davis.
- **“Where the seller of a home knows of facts materially affecting the value of the property which are not readily observable and are not known to the buyer, the seller is under a duty to disclose them to the buyer.”**

Statutory Flood Disclosures

General Seller Disclosure

- Making these disclosures is a seller's obligation in Florida Realtors form listing agreements.

7. **Seller Obligations:** In consideration of **Broker's** obligations, **Seller** agrees to:

- (a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.
- (b) Recognize **Broker** may be subject to additional MLS obligations and potential penalties for failure to comply with them.
- (c) Provide **Broker** with keys to the Property and make the Property available for **Broker** to show during reasonable times.
- (d) Inform **Broker** before leasing, mortgaging, or otherwise encumbering the Property.
- (e) Indemnify **Broker** and hold **Broker** harmless from losses, damages, costs, and expenses of any nature, including attorney's fees, and from liability to any person, that **Broker** incurs because of (1) **Seller's** negligence, representations, misrepresentations, actions, or inactions; (2) the use of a lock box; (3) the existence of undisclosed material facts about the Property; or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is entitled to compensation from **Broker**. This clause will survive **Broker's** performance and the transfer of title.
- (f) Perform any act reasonably necessary to comply with FIRPTA (Section 1445 of the Internal Revenue Code).
- (g) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or known by the buyer. **Seller** certifies and represents that **Seller** knows of no such material facts (local government building code violations, unobservable defects, etc.) other than the following:

Seller will immediately inform **Broker** of any material facts that arise after signing this Agreement.

- (h) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements, and other specialized advice.

Statutory Flood Disclosures

General Seller Disclosure

- This concept is also in Florida purchase and sale agreements, including the “As Is” version.

238 (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are
239 not readily observable and which have not been disclosed to Buyer. Except as provided for in the preceding
240 sentence, Seller extends and intends no warranty and makes no representation of any type, either express or
241 implied, as to the physical condition or history of the Property. Except as otherwise disclosed in writing Seller
242 has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected
243 building, environmental or safety code violation.

244 **PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS**

245 **11. PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the
246 Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date (“AS
247 IS Maintenance Requirement”).



Statutory Flood Disclosures

General Seller Disclosure

- Is the seller obligated to disclose hidden commercial property defects?

Education Purposes Only

Statutory Flood Disclosures

General Seller Disclosure

- Is the seller obligated to disclose hidden commercial property defects?
- **No, this obligation applies to residential properties, although misrepresentation is a problem for any property.**



Statutory Flood Disclosures

General Seller Disclosure

- Is the seller obligated to fill out a Florida Realtors form Seller's Property Disclosure – Residential (SPDR) or similar preprinted form?

Statutory Flood Disclosures

General Seller Disclosure

- Is the seller obligated to fill out a Florida Realtors form Seller's Property Disclosure – Residential (SPDR) or similar preprinted form?
- **No. Although this is a good form, it's up to them how to disclose UNLESS the listing agreement adds this as a requirement.**



Statutory Flood Disclosures

Seller Disclosure Generally

- Does the disclosure have to be in writing?

Education Purposes ONLY

Statutory Flood Disclosures

Seller Disclosure Generally

- Does the disclosure have to be in writing?
- **No, although it's a very good idea to have an accurate, written record of the disclosure.**



Statutory Flood Disclosures

Seller Disclosure Generally

- Can licensees also be liable?

Education Purposes ONLY

Statutory Flood Disclosures

Seller Disclosure Generally

- Can licensees also be liable?
- **Yes, so they should ensure all latent defects they are aware of are disclosed.**



Statutory Flood Disclosures

Seller Disclosure Generally

- What if a seller and listing broker disagree about whether something is a required disclosure?

Education Purposes Only

Statutory Flood Disclosures

Seller Disclosure Generally

- What if a seller and listing broker disagree about whether something is a required disclosure?
- **Ultimately, a court could decide who is right unless the parties settle on a solution they can both agree on.**



Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- In 2024, Florida created a new flood disclosure for sellers of residential property to complete and provide by the time the contract is executed.
- Effective October 1, 2025, this seller disclosure will be slightly modified, and there will be a similar disclosure for landlords.

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- Why did they create this disclosure if we already have Johnson v. Davis?
- Courts were split over whether seller had an obligation to disclose facts about flooding.
 - One court believed seasonal flooding was common knowledge and “readily apparent” to a buyer who exercised reasonable due diligence.
 - A different court believed a seller had a duty to disclose certain flood history facts even if flooding was mentioned in docs buyer received.

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

689.302 Disclosure of flood risks to prospective purchaser.—A seller must complete and provide a flood disclosure to a purchaser of residential real property at or before the time the sales contract is executed. The flood disclosure must be made in the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' insurance policies do not include coverage for damage resulting from floods. Buyer is encouraged to discuss the need to purchase separate flood insurance coverage with Buyer's insurance agent.

(1) Seller has ☐ has no ☐ knowledge of any flooding that has damaged the property during Seller's ownership of the property.

(2) Seller has ☐ has not ☐ filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

(3)(2) Seller has ☐ has not ☐ received federal assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

(4)(3) For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

- (a) The overflow of inland or tidal waters.
- (b) The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.
- (c) Sustained periods of standing water resulting from rainfall.



Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- Question: Does this flood disclosure apply to vacant land?

Education Purposes ONLY

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- Question: Does this flood disclosure apply to vacant land?
- **Answer: The statute doesn't define "residential real property," so conservatively, if the vacant land is planned for residential use or is zoned as such, a seller should provide it.**



Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- Question: What's the penalty to a seller who doesn't provide the statutory flood disclosure?

Education Purposes ONLY

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Sales

- Question: What's the penalty to a seller who doesn't provide the statutory flood disclosure?
- **Answer: There is no specific relief mentioned in the statute.**
 - If no harm (i.e. if the seller would have checked "NO" to all the questions), then there may not be a case.
 - If yes (i.e. if the seller would have checked "YES" to one of the questions or if there's flooding), there could be a claim for damages.
 - Note: depending on jurisdiction, this may have already been the case under Johnson v. Davis.

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Rentals

- The new disclosure for landlords isn't identical.
- It applies to residential leases for 1 year or longer.
- There are 3 yes/no check boxes about:
 - Knowledge of flooding during ownership,
 - Claims for flood insurance, and
 - Assistance for flood damage from FEMA or another organization.

Statutory Flood Disclosures

10/1/2025 Revised Flood Disclosure: Rentals

- One difference compared to sales is the relief tenant gets if the disclosure is not provided.
- If the landlord doesn't comply with the statute, and if the tenant suffers "substantial loss or damage" to personal property (50% or more of market value), then the tenant can terminate the lease by sending a notice within 30 days after the damage occurs.



CHAMPIONS FOR THE
AMERICAN DREAM
FLORIDA REALTORS® 2025

2025 TCPA Update

Heather Rhodes
Associate General Counsel



FloridaRealtors®
The Voice for Real Estate® in Florida

Telephone Consumer Protection Act (TCPA)

► What is it?

- Enacted in 1991
- A Federal law that regulates telemarketing communications (including calls, texts, and faxes)
- Limits the use of automatic dialing systems and prerecorded voice messages without sufficient express consent
- Prohibits unsolicited calls to numbers on the National Do Not Call Registry
- Forbids telephone solicitations before 8 a.m. and after 9 p.m.

Telephone Consumer Protection Act (TCPA)

- TCPA regulates telemarketing calls, text messages, and fax communications
- Some exceptions:
 - Manually dialed calls with no pre-recorded message
 - Calls made for emergency purposes
 - Calls not made for a commercial purpose
 - Keep in mind the DO NOT CALL list may still apply

TCPA - Robocalls

- Robocalls are calls made with an autodialer or that contain a prerecorded or artificial voice message
- Robocall consent:
 - Must be **written consent** before a prerecorded **telemarketing call** to your **home or wireless number**
 - **Verbal or written consent** needed before an autodialed or prerecorded **call or text** to a **wireless number**

NOTE: FCC has declared that calls made with AI or AI-generated voices are considered “artificial” voice calls under the TCPA, making voice cloning technology used in common robocall scams targeting consumers illegal absent prior consent or a recognized exemption.

What is Consent?

- TCPA statute itself does not define “prior express consent”
- Looks to the FCC to interpret TCPA rules
- FCC interprets TCPA “prior express consent” to mean “prior express written consent” in the context of robocalls
- FCC Regulations define “prior express written consent” as:
 - An agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered

Breakdown of “Prior Express Written Consent”

- When do we need it?
 - For calls made with an autodialer or artificial or prerecorded voice to cell phones or residential lines via artificial or prerecorded voice
- How do we get it?
 - Written agreement
 - Signed – which can be electronically, including but not limited to:
 - Website form with click button affirming consent
 - Email
 - Text
 - Telephone keypress
 - Is not a requirement to doing business

Why This Matters – Lawsuits & Damages

- Primarily enforced through private right of action - allows individuals to sue
- Enforcement powers belong to:
 - Federal Communications Commission (FCC)
 - Federal Trade Commission (FTC)
 - State attorneys general
- **Damages**
 - Standard penalty is \$500 PER VIOLATION
 - For known or willful violations, penalty is \$1500 PER VIOLATION

Changing Legal Landscape Around McLaughlin Case

- *McLaughlin Chiropractic Assoc. Inc, V. McKesson Corp.*
 - Case decided on June 20, 2025
- Prior to the McLaughlin Case District Courts where cases are filed adhered to a 1950's law commonly called The Hobbs Act
 - It required District Courts to defer to FCC interpretations of the TCPA in civil cases
 - Businesses – generally could rely on FCC interpretations as guidance to shape their practices expecting district courts to uphold these interpretations.

Changing Legal Landscape Around McLaughlin Case

- *McLaughlin Chiropractic Assoc. Inc, V. McKesson Corp.*
- This case centered on faxes being sent through traditional fax machines and online fax services in 2009-2010
- Mid case the FCC issued the Amerifactors Order interpreting “telephone facsimile machine” in TCPA to exclude online fax services
- The district court followed The Hobbs Act and took the FCC opinion in account and decided the case upon it

Changing Legal Landscape Around McLaughlin Case

- *McLaughlin Chiropractic Assoc. Inc, V. McKesson Corp.*
- The Supreme Court held that the Hobbs Act does **not** bind District Courts in civil enforcement proceedings to an agency's interpretation of a statute
 - Rather, district courts must independently determine the law's meaning under ordinary principles of statutory interpretation while affording appropriate respect to the agency's interpretation
 - So, this case clarifies that courts have a duty to interpret statutes for themselves, not just follow the agency's lead
- Historical shift in how district courts will handle cases going forward

Changing Legal Landscape Around McLaughlin Case

- Post McLaughlin - 2 cases were decided in different District Courts on the same day – July 21, 2025
 - *The Jones Case* – centered on whether text messages are protected by TCPA laws
 - District Court held that based on the plain meaning of the TCPA – **§ 227(c)(5) does not apply to text messages**
 - *The Wilson Case* – centered on arguing text messages are not “solicitations” under TCPA and DNC
 - District Court held that the FCC has expanded the TCPA – **it does apply to text messages.**
- **Courts are split!**

Takeaways

- TCPA compliance landscape is wide open for legal challenges
 - Cell phones and the DNC Registries
 - Prior Express Consent Requirement
 - Term not explicitly defined in TCPA - definition is in FCC interpretation
- Review and update communication practices/policies
- Continue to honor “STOP” requests
- Maintain internal DNC lists and scrub against the FL & national DNC registries & the Reassigned Numbers Database
- NAR has a link on their website
 - Do Not Call Registry: Creating an Office Policy
 - <https://www.nar.realtor/legal/complying-with-federal-regulations/do-not-call-registry/creating-an-office-policy>

Do Not Call Registries (DNC)

- Do Not Call list
 - Fines are \$500-\$1500 per call if you violate
 - Same fines for Florida
- Do Not Call Compliance:
 - Do not call registrations must be honored indefinitely
 - OR until the registration is cancelled by the consumer
 - OR the phone number is removed by the database administrator

Reassigned Numbers Database (RND)

- As of November 1st, 2021 - The FCC launched the Reassigned Numbers Database (RND)
- It is designed to prevent a consumer from getting unwanted calls intended for someone who previously held their phone number
- Callers can use the database to determine whether a telephone number may have been reassigned so they can avoid calling consumers who do not want to receive the calls
- **How Can the Reassigned Numbers Database Help?**
 - Callers can check before making a call to find out if the phone number may have been reassigned. If the database wrongly indicates that the number has not been reassigned, the caller may be protected against TCPA liability when placing the call
 - <https://www.fcc.gov/reassigned-numbers-database> - webinar and slides if you want to learn more

Reassigned Numbers Database (RND)

- www.reassigned.us
- **To use the database you must have:**
 - **The phone number the caller wishes to call**
 - AND**
 - **The date the caller obtained consent OR the last date the caller was able to verify the consumer was at that phone number**
- **Safe Harbor:**
 - To be shielded from liability under the TCPA, a caller must prove that:
 - (1) it obtained consent from the intended call recipient;
 - (2) it or its duly authorized agent checked the database prior to calling the number to verify that the number had not been permanently disconnected, or reassigned, after the date the caller obtained consent; and
 - (3) the database returned a query response of "no" that was incorrect.

Best Practices

- Provide a clear explanation of the type of communication consumers are consenting to
- Obtain prior express written consent from the consumer you are calling
- Establish thorough consent tracking systems to ensure accurate documentation of consumer consent for marketing communications
- Implement real-time consent management to address opt-out requests efficiently and avoid any delays in communication cessation
- Establish and implement a TCPA compliance policy & enforce it!



Best Practices



- Provide easy opt-out options
- Scrub against the National DNC & Florida DNC & RND
- Scrub against your internal office DNC list
- Immediately honor “STOP” or Do Not Call requests
- Reminder: In **Florida**, we must comply with the Florida Telephone Solicitation Act



Thank You for Attending

Questions?

Contact the Legal Hotline

- Call: 407-438-1409
- Email us: floridarealtors.org
 - Go to Law & Ethics
 - click on Florida Realtors Legal Hotline
 - Log in to submit a question; we strive to call back within 1 business day
- Also: forms@floridarealtors.org