



LEGAL HOTLINE Q&A

FROM GET THE FACTS, January 23, 2024

Question:

What is the purpose of Form 42C and when should it be used? Regarding Form 21, Paragraph 17... if the box "Other-See Addendum" is checked, which addendum should be attached and why?

Answer:

Form 42C is a form that will be used rarely. It is an addendum to the PSA that will be used only if: 1) the PSA is written on a form other than statewide forms; or 2) the listing office is offering compensation to the buyer broker in addition to compensation offered by seller. After January 1, 2024, buyer broker is required to disclose any compensation offered to buyer broker by seller or the listing firm. Form 21, paragraph 17 is sufficient for disclosure of compensation offered by the seller but if the buyer's offer is written on a form other than a statewide form purchase agreement (such as a builder PSA or an REO PSA), then broker may need to attach Form 42C to make disclosure of compensation offered by seller to buyer broker. Also, if the listing firm offers compensation, such as a selling office bonus, in addition to the compensation offered by seller, that must be disclosed and the second paragraph on Form 42C is the appropriate place to make that disclosure.

If Form 21, paragraph 17 has the "other-See Addendum" box marked, that means that seller's offer of compensation is not consistent with the amount of compensation that buyer wants seller to pay to buyer's broker. Form 41C is the addendum that buyer broker would most likely attach to the Form 21 as the addendum referenced by that checkbox. Form 41C allows buyer to request that seller increase the compensation offered to buyer's broker (first two check box provisions); pay the compensation offered but credit a portion of the compensation to buyer's benefit rather than to buyer broker's compensation (third check box); or keep a portion of the offered compensation for seller's benefit (fourth check box).

The Legal Hotline Lawyer does not represent Washington REALTORS® or its members. The advice contained herein does not constitute legal counsel. To browse through our database of past Q & A's, visit warealtor.org/legal-hotline. Attorney Annie Fitzsimmons writes the Legal Hotline Question and Answer of the Week. This is a WR members-only benefit so you will be prompted to log in with your MI number and password. Your Designated Broker is cc'd on Legal Hotline inquiries.



facebook.com/warealtors
twitter.com/washrealtors
instagram.com/washrealtors
youtube.com/washrealtors



warealtor.org • 1-800-562-6024 • 360-357-6627 Fax • 504 14th Ave SE, Olympia, WA 98501 • P.O. Box 719 Olympia, WA 98507 (Mailing)