

## What is Arbitration?

Arbitration is the resolution of a real estate business dispute by the decision of an arbitration hearing panel. It may take place between Realtor® principals of different forms or between a Realtor® principal and another party. Frequently, the dispute involves entitlement to compensation for real estate services. Arbitration may also involve Realtors® other than principals or Realtor-Associate®s, provided that the Realtor® principals with whom they are affiliated join in the dispute.

Arbitration can take place between Realtors® and Realtor Associate®s from the same firm if all parties voluntarily agree to be bound by the decision. Or, arbitration may take place between a Realtor® principal and a customer provided both voluntarily agree to it in writing. It may take place on a voluntary basis between a Realtor® principal and non-member broker.

Boards/Associations are not required to provide arbitration facilities on the last three circumstances, although many do.

## Who is Entitled to Arbitration?

1. Realtors® or nonresident member principals of different firms.
2. Realtors® or nonresident members other than principals or Realtor Associate®s in different firms, provided the Realtor® or nonresident principals with whom they are affiliated join in.
3. A client of a Realtor® or nonresident member principal provided the client agrees in writing to arbitrate the dispute arising out of their agency relationship and the matter is found to be properly arbitrable.

## Who is Entitled to Request Voluntary Arbitration (If Provided by the Board/Association)?

1. Realtors®, Realtor Associate®s, and nonresident members who are or were affiliated with the same firm, if each party voluntarily agrees in writing and if the board/association finds the dispute properly arbitrable.
2. A Realtor® or nonresident member principal may request arbitration with the non-member broker,

providing that each party agrees in writing to arbitration and providing the board/association finds the matter properly arbitrable.

3. A Realtor® or nonresident member principal and a customer provided that a written contractual relationship has been created between the customer and a client, the customer and the Realtor® or nonresident member agrees in writing to arbitrate the dispute and the matter is found to be properly arbitrable.

## Must the Board/Association Arbitrate All Disputes?

No, the board/association may decline to arbitrate if its Grievance Committee determines that **(1) the dispute is not properly arbitrable, or (2) the amount involved is too small or too large, or (3) the legal complexity of the dispute is too great.**

Further, if the dispute is the subject of civil litigation, arbitration cannot occur unless litigation is terminated or referred to the Board/Association of Realtors® by the court for arbitration (in accordance with Article 17 of the NAR Code of Ethics).

## Arbitration Alternatives

Sometimes a local board/association is unable to provide an impartial or unbiased arbitration or to provide a hearing by knowledgeable peers, as is the case of members engaged in special fields. In such cases, the board/association can request that the state association arbitrate the matter. If the state cannot or does not provide arbitration, members are released from the obligation to arbitrate.

## How to File an Arbitration Request

Detailed information can be found in **Section 47. Manner Of Invoking Arbitration**, of the *Code of Ethics and Arbitration Manual* of NAR, or in local board/association bylaw provisions that are the counterpart of Section 47 of the NAR Manual. You may read this at the board/association office, or the board/association may supply you with a copy of the appropriate section.

You can also obtain information on filing an arbitration request by calling Etta Henry, Professional Standards Administrator, Reading-Berks Association of Realtors®.

If the local board/association does not have an executive officer, you can contact the board/association president or secretary for information. Requests must always be filed in writing, signed, and accompanied by the required deposit within one-hundred-eighty (180) days after the closing of the transaction, if any, or within one-hundred-eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later. In many instances, the local board/association will furnish special assistance and information concerning required procedures to members of the public.

## Board/Association Options for Conducting Arbitration

Contingent upon state law, the local board/association should adopt one of the following procedures:

1. No arbitration without a signed agreement and deposit from all of the parties.
2. Arbitration without a signed agreement and deposit if the respondent appears and participates.
3. Arbitration without the respondent appearing, providing that he/she has prior notice of the hearing.\*

\*In cases where the respondent does not appear, a reasonable effort should be made to determine why that person was not present.

## Arbitration Hearing

Procedural time periods may vary. Please determine the local board/association schedule, if you are involved, and follow it closely.

Parties to a hearing are entitled to all information provided to or received by the other party. A party to the hearing is entitled to challenge any potential panel member for a cause. A party is entitled to legal counsel, to call witnesses, to advance notice of witnesses called by the other party, to testify and introduce evidence, to cross-examine opposing parties and their witnesses, and to receive an impartial hearing.

Realtors® other than principals and Realtor Associate®s are entitled to at least one arbitrator from the membership classifications of Realtor other than principals or Realtor Associate®. Real estate

specialists are entitled to a hearing before a panel of members who are knowledgeable in the relevant field.

### **Arbitration Awards**

An arbitration award is made in writing, signed by at least a majority of arbitrators and states only the amount of the award, if any. A signed award is valid and binding, absent any appeal on the basis of an alleged deprivation of due process.

The board/association, at its option, may establish bylaw provisions that call for either paying the award within ten (10) days or escrowing the award amount in a special board/association escrow account, if the non-prevailing party plans to initiate legal challenge of it. Failure to pay the award or make the required deposit may result in disciplinary action.

### **Request for Procedural Review by Directors**

The arbitration award is not subject to review or appeal, except with respect to alleged irregularities that may have deprived the party of due process. If there is no request for procedural review, the award is final after a specified time.

### **Judicial Enforcement of Arbitration Awards**

If the non-prevailing party does not promptly pay an award, and the board/association does not require such awards to be deposited in a board/association escrow account, the **National Association of Realtors®** advises the board/association to encourage the prevailing party to seek judicial enforcement of the award.

The board/association may assist in this proceeding and may, at its option, reimburse the party in whole or in part for any legal expense incurred.

The **National Association of Realtors®** also has a legal defense fund to which a Realtor may apply for assistance, with grants made on the merits of each such application.

This brochure is brought to you by the Professional Standards Committee of the Reading-Berks Association of Realtors®.

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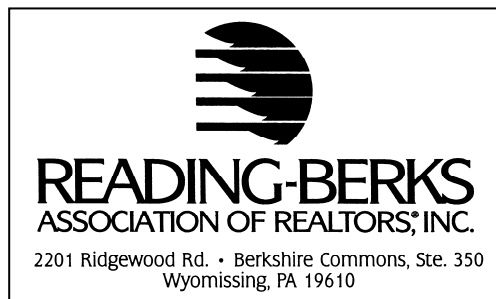
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# **Filing a Request for Arbitration with the Reading-Berks Association of Realtors®**

