



## Do I owe my broker a fee if a buyer my broker located makes an offer on my home after the listing expires?

**A:** You owe your broker a fee if a prospective buyer with whom the broker had contact later returns to purchase the property during the **safety period** established by the **safety clause** in your listing agreement.

The *safety clause* provision of a listing agreement provides an additional time period after the listing period expires for a broker to earn a fee on efforts expended with prospective buyers during the listing period.

A safety clause in a listing agreement entitles the broker to the agreed fee as earned, when:

- an individual has direct contact with the broker (or their agent) regarding the property during the listing period, called **solicitations**;
- the broker treats the individual as a prospective buyer due to their inquiries or conduct by handing them a package of information about the property, called **negotiations**;
- negotiations – property discussions – with the individual terminate without resulting in their entering into an agreement to purchase the property;

- the listing period expires and the broker timely **registers** the individual by name with you as a prospective buyer; and
- the individual and you, with or without the broker's further involvement, later commence negotiations within the safety period and eventually complete a sale of the property.

The safety clause imposes an obligation on you to pay a fee on a sale which results from negotiations with registered prospective buyers handled by anyone within the safety period.

The **degree of involvement** required for a broker or their agent to qualify a buyer as a prospective buyer is set by the terms of the safety clause. At the very least, a seller's broker or their agent is required to provide the buyer with **information regarding the property** to qualify as having commenced negotiations. The agent does not need to produce a written offer from a buyer for the buyer to be a prospective purchaser.

The safety period commences on termination of the listing period. Thus, the safety period commences upon the listing's expiration.