

# **MLS of the South Bend Area REALTORS**

## **Policy**

Revised 8-15-2024

### **ARTICLE I SERVICE CHARGES**

#### **SECTION 1. SERVICE FEES AND CHARGES**

**1.1. The following service charges for the operation of the MLS are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:**

##### **1.2. Entry Fee**

An applicant for participation in the Service shall pay an entry fee of \$2,000.00 with such fee to accompany the application.

##### **1.3. Transfer Of MLS/Comp Service Participation Within Same Office**

An MLS/Comp Service Participant electing to transfer their participation to another broker within their office must submit an "Application For Transfer Of MLS/Comp Service Participation Within Same Office" for approval by the MLS Directors.

##### **1.4. Quarterly Subscription Fee**

The Quarterly Subscription Fee will be set by the MLS Board of Directors and will change from time to time as operating costs of the MLS indicate.

**1.5. MLS Billing Procedure for Participants & Subscribers: MLS User fees will be assessed quarterly, in advance, for the period the service is to be provided.**

I. Invoices will be e-mailed to each MLS Participant and Subscriber on the first day of the month.

II. Payment in full must be made by the Participant and/or Subscriber on or before the 15th day of the billing month.

III. Services to MLS Participants or Subscribers who do not make full payment of their quarterly service fees on or before the 15th day of the billing period will be assessed a \$25 late fee on the 16th of the month and have their MLS services suspended (deactivation of agent ID number, password and key card access code).

IV. Suspended MLS Participants or Subscribers will be assessed a \$25.00 reinstatement of service fee on the 26th day of the billing period. Quarterly fee, late fee and reinstatement fee must be paid before service is restored.

V. On the 16th day of the billing period the MLS staff will email the Participant the names of Subscribers within their office who have not paid their MLS User fees and who are subject to suspension of services and a \$25.00 reinstatement fee.

### **Agents Joining MLS After The Quarterly Billing Has Been Sent**

A monthly prorated Unit Of Service charge will be assessed to the agent subscribing to the MLS after the quarterly billing has been sent out.

#### **1.6. MLS Units Of Service Payment Policy:**

##### **A. Payment For Units Of Service and Supplies.**

All Units Of Service fees and supply charges must be paid by check or credit card.

##### **B. Handling Of NSF Check of MLS Participant And Subscribers**

If a Participant or Subscriber has more than one check returned for insufficient funds within a 12-month period, all subsequent billings must be paid by certified check or credit card.

##### **C. No Refund Policy**

No refunds will be issued on any MLS Fees paid.

#### **1.7. MLS Participation Terminated**

A notice will be sent to the delinquent Participant who has outstanding Units Of Service and Supply charges dues on intervals of 30, 60, and 90 days. The 90 day notice will request that the Participant pay the charges in 13 days or have his/her participation in the MLS terminated.

#### **1.8. MLS Subscription**

An MLS Subscription shall be paid by all sales associates, principals, partners, or managers holding an active real estate license. Sales Associates shall be defined as anyone whose license is assigned to an MLS Participant.

However, the MLS must provide participants with the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. The MLS may require that broker participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated.

The MLS will require that Participants provide a list of licensees not included as subscribers to the MLS, consistent with the above waiver provision.

The MLS Participant must supply the MLS Office a copy of the Indiana Real Estate Commissions "Transfer Of License Form" or other written documentation before a sales associate can be removed from the Participants Unit Of Service billing.

## **Section 2: COMMERCIAL INFORMATION EXCHANGE PARTICIPANTS 1.2.1. CIE Fees and Charges**

CIE fees, dues, and charges: CIE participants must be given the option of a no-cost waiver for any licensee, licensed or certified appraiser who does not use the service and who can demonstrate subscription to a different CIE or MLS where their principal is a participant. CIEs may, at local discretion, require that broker participants sign a certification for nonuse of the CIE's services by their licensees, which can include penalties and termination of the waiver if violated.

## **ARTICLE II COMMON LOCK BOX SYSTEM OF THE MLS OF THE SOUTH BEND AREA REALTORS, INC.**

### **SECTION 1. AUTHORIZED PERSONS**

2.1.1. Every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a Key subject to their execution of a lease agreement with the MLS.

2.1.2. The MLS Directors may lease Keys to Affiliate members of the South Bend AREA REALTORS, Inc. who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the lease agreement shall be signed by the Key Holder and by a principal, partner, or corporate officer of the Key holder's firm.

2.1.3. The leased Key may not be used by anyone other than an authorized Key Holder.

2.1.4. Unlicensed personal assistants and/or office staff will not be authorized key users

2.1.5. Those who do not lease a Key are prohibited from placing a key box on any property.

### **SECTION 2. ISSUANCE PROCEDURES**

2.2.1. Before a SentiLock Key will be issued, the individual affiliated with a Participant shall sign a written SentiLock E-Key & Display Key Card/Keybox Lease Agreement with the MLS stipulating the responsibilities and liabilities of both the individual and the Participant. The Participant shall also be a signatory to each agreement executed by a salesperson affiliated with him/her. A non-refundable fee of \$100.00 is required at the time the SentiLock Key is issued.

2.2.2 For inventory control purposes SentiLock boxes are assigned to individuals only. Lockboxes will not be issued at the office level.

Association staff may transfer boxes to another licensee by written request from the receiving licensee.

### **SECTION 3. RECORDS**

2.3. The MLS shall maintain records as to all SentiLock Keys & Keyboxes in inventory and all SentiLock Keys & Keyboxes that have been issued. The SentiLock Keys that have been issued shall have the following information recorded: Date SentiLock Key issued, Serial number, the person to whom the SentiLock Key was issued, Participant that person is affiliated with, amount of fee, date SentiLock Key was returned, or amount forfeited. The SentiLock Keys in inventory shall have numbers recorded.

### **SECTION 4. LOSS OF SentiLock KEY AND KEYBOXES**

2.4. If a SentiLock Key box is lost, stolen or otherwise unaccounted for, there will be a charge of the current replacement cost for each lost Key box

### **SECTION 5. ANNUAL AUDIT**

2.5. At least annually, the MLS shall audit all SentiLock Keys that are issued to authorized persons and those in inventory.

### **SECTION 6. OWNER'S AUTHORIZATION**

2.6. The listing broker prior to placing a key box on any property, must obtain written authorization from the property owner to place a Key box on his property.

### **SECTION 7. MLS SPONSORED LOCKBOX ON LISTED PROPERTIES**

2.7. For any Residential or Multifamily listing submitted to MLS that the Seller authorizes a lockbox placed on the property, the Listing Agent is required to place an MLS sponsored lockbox (SentiLock) with entry key to the property, in addition to any other lockbox the Seller authorizes.

### **SECTION 8. Unauthorized Access**

2.8.1. No SentiLock Key Holder shall utilize their SentiLock Key to access a property via the attached SentiLock keybox without first obtaining permission from the listing agent. Accessing a property via the SentiLock lockbox without permission shall result in a fine of \$500.00 for the first offense. Each subsequent offense will result in a fine of \$1,000.00.

2.8.2. In instances when a member, who subscribes to the SentiLock keybox system via the SBAR MLS, accesses a property without authorization via a keybox managed by another association which is a part of IRMLS or has established reciprocal access via a separate, independent agreement with the SBAR MLS, the fine for unauthorized access

shall be imposed on the same basis as if the unauthorized access occurred in the SBAR MLS keybox system.

## **ARTICLE III COMPLIANCE WITH RULES SECTION**

### **1. COMPLIANCE WITH RULES**

#### **Authority to Impose Discipline**

3.1.1. By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000.00
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

Note 1: A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than on (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfilment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance.

Note 2: MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow

more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

3.1.2 The following action may be taken for non-compliance with the rules:

3.1.3 For failure to pay any service charge or fee within 15 days of the due date, the Service shall be suspended until service charges or fees are paid in full.

3.1.4 For failure to comply with any other rule, the provisions of Article III shall apply.

#### **ARTICLE IV MEETINGS**

4.1.1. The meetings of the Participants in the Service or the Board of Directors of the Service for the transaction of business of the Service shall be held in accordance with the provisions of Article 7. Bylaws of the Service.

#### **ARTICLE V ENFORCEMENT OF RULES OR DISPUTES**

##### **SECTION 1. CONSIDERATION OF ALLEGED VIOLATIONS**

5.1. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors).

##### **SECTION 2. VIOLATIONS OF SBAR MLS Policy**

5.2. If the alleged offense is a violation of the SBAR MLS Policy of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Board of Directors of the Service and if a violation is determined, the Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and IRMLS Rules and Regulations and the MSL Policy of the Association Of REALTORS® within twenty (20) days following receipt of the Directors' decision. If rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the board of directors of the MLS within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the professional standards committee of the association of REALTORS for processing in accordance with the association's professional standards procedure. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS.

## **SECTION 3. COMPLAINTS ON PROFESSIONAL CONDUCT**

### **5.3.1. Complaints of unethical conduct**

All other complaints of unethical conduct shall be referred by the Board Of Directors of the MLS Service to the Association Of REALTORS® for appropriate action in accordance with the usual procedure under the terms of the Bylaws.

### **5.3.2. Complaints of Unauthorized Use of Listing Content**

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identifying the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in Section 5.3 of the MLS rules.

Within ten (10) days from receipt, the participant must either:

1) Remove the allegedly unauthorized content, or 2) provide proof to the committee (Board of Directors) that the use is authorized. Any proof submitted will be considered by the Committee (Board of Directors), and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee (Board of Directors) determines that the use of the content was unauthorized, the Committee (Board of Directors) may issue a sanction pursuant to Article III of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

### **5.3.3. MLS Rules Violations**

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules.

**5.3.4. Confidentiality of Complaint** When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to the complainant.