



## Variable Dues Formula FAQ

The California Association of REALTORS® Membership Department is dedicated to providing local Associations with valuable tools and the highest level of support possible. One of our objectives is to assist local Associations with NAR Variable Dues compliance efforts. We recognize that local Associations need more information at their fingertips in order to properly respond to and educate brokers and agents on NAR's Variable Dues Formula.

### **Q 1. *Who is included in the NAR Variable Dues Formula?***

**A** All individuals licensed directly or indirectly with a DR are included in the calculation. An offsetting credit is given to the DR based on the number of non-principal licensees who hold REALTOR®, REALTOR-ASSOCIATE®, or Institute Affiliate membership in their own right.

### **Q 2. *Who is licensed with a DR for dues purposes?***

**A** A licensee is deemed "licensed with" a DR if the agent's license is held by the DR or under the corporation license where the DR has a direct or indirect ownership interest. An example of an indirect ownership interest in an entity would be where the DR has a corporate license, and the licensees' licenses are under the corporate entity.

### **Q 3. *Who pays the dues under the NAR Variable Dues Formula?***

**A** The DR is the person responsible for paying the dues to the local association. The non-member dues include C.A.R. \$184 and NAR \$150. The local association can choose to include non-member dues as well but the dues cannot exceed their current local dues.

**Q 4. *Is there an exception to the NAR Variable Dues Formula?***

**A** Yes. There are two (2) exceptions to the formula: (1) for non-REALTOR® licensees working in a referral company (“LFRO”); and (2) for non-REALTOR® licensees who are engaged, only, in providing services for which a mortgage loan originator (“MLO”) endorsement is required and who have an MLO endorsement on their license.

**Q 5. *What are the requirements for the LFRO exception to apply?***

**A** In order for the LFRO exception to apply, the DR must certify the LFRO agents using the LFRO Certification Form, and that the LFRO agents are (1) working in a separate entity; and (2) are engaged in referrals only. If a DR certifies that agents are working as a LFRO, then those agents are not included in the variable dues formula calculation. *The LFRO exemption for any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities (**listing, selling, leasing, renting, managing, counseling, appraising, or arranging financing for real property**) other than referrals or upon their joining an MLS.*

**Q 6. *What kind of “separate entity” must a broker have in order to have a LFRO?***

**A** In California, it is sufficient for a broker to set up a DBA for the LFRO. Of course, if the broker wishes to use a separate corporation for the LFRO agents, that is acceptable as well, but not necessary. If the broker does not have a separate entity setup for the LFRO agents, the broker can use his/her name as the separate entity (example: John Wayne, Referral)

**Q 7. *What are the requirements for the MLO exception to apply?***

**A** In order for the MLO exception to apply, the DR must certify, using the MLO certification form, that the MLO agents are (1) working for an entity in which the DR has an ownership interest; (2) are engaged, only, in providing services for which an MLO endorsement is required; and (3) are not participants or subscribers in any MLS. If the DR certifies that agents are MLOs and meet the requirements for the MLO exception, then those agents are not included in the dues formula calculation.

**Q 8. Is a “separate entity” required in order to qualify for the MLS exception?**

**A** No. Unlike the LFRO exception, a separate entity is not required for the MLO exception. MLO agents can work side-by-side with real estate agents, in the same entity.

**Q 9. Can a LFRO or MLO belong to an MLS and still retain their exempt status?**

**A** If the individual is a participant or subscriber in an MLS, they automatically lose their exempt status. However, if they are a **clerical user**, as defined by the MLS, they can retain their exempt status. ***In short, a LFRO or MLO can be a clerical user, but cannot be a participant or subscriber.***

**Q 10. Are property managers exempt from the formula?**

**A** No. Only LFROs and MLOs are exempt from the formula. Licensees that are engaged in listing, selling, leasing, renting, managing, counseling, appraising, or arranging financing for real property do not qualify for the exemption status. Property managers are involved in **leasing, renting, and managing**.

**Q 11. Are licensed assistants who work for the DR exempt from the dues formula?**

**A** No. The only exceptions to the variable dues formula are for agents who are LFROs and qualified MLOs. Therefore, a non-member licensee who acts as an assistant in the DR’s firm is counted for purposes of the dues formula. If the licensed assistant is operating in a capacity that does not require a license, then the assistant should remove their license so their license status becomes Licensed NBA, and the assistant will be excluded from the dues formula.

**Q 12. Are licensed assistants who work for a broker-associate in the DR’s firm exempt from the formula?**

**A** No. The only exceptions to the NAR Variable Dues Formula are for agents who are LFROs and qualified MLOs. Therefore, a non-member licensee who is an assistant to a broker-associate in the DR’s firm is counted for purposes of the dues formula.

**Q 13. *What if the DR or the broker for whom the DR works has two or more separate corporations; does the dues formula apply to the licensees in all corporations?***

**A** Yes. If a broker has more than one corporation or firm, the broker is responsible for all licensees, in all entities, under the dues formula.

**Q 14. *What if the DR is working under their own individual license, but he or she is a principal in a corporation under which the non-members hang their licenses?***

**A** If a broker is a “principal” in the corporation, the broker is responsible for all licensees in all entities, under the dues formula.

**Q 15. *What is the definition of a “principal”?***

**A** Under NAR policy, “principals” include sole proprietors, partners in partnerships, officers and majority shareholders in corporations, and office and branch managers acting on behalf of a principal(s).

**Q 16. *When a DR pays the non-member fee under the NAR Variable Dues Formula, and then the non-member decides to become a REALTOR®, can the non-member fee be transferred to dues?***

**A** No. The non-member fee non-transferrable. The non-member dues is part of the DR’s dues and the DR’s dues is calculated based on the count of non-members licensed with the DR.

**Q 17. *Can an Association require licensees to become REALTORS®?***

**A** No. If a broker wishes to require his or her licensees to become REALTORS®, that is a business decision for the broker, but no Association of REALTORS® can force a licensee to become a REALTOR®. In addition, the AOR cannot require the DR to force his or her licensees to become REALTORS®.

**Q 18. *What happens if a DR refuses to pay the non-member fee according to the NAR Variable Dues Formula?***

**A** Full payment of dues owed is required for membership in a local AOR. Even partial payment does not satisfy the dues obligation. If a DR refuses to pay his or her full dues using the NAR Variable Dues Formula, the DR along with his or her entire office will be suspended from the local AOR membership, which, also, cuts off C.A.R. and NAR membership.

**Q 19. *If a DR is not happy with the dues invoice from my local AOR, can he/she join another AOR and avoid the dues formula?***

**A** No. All Associations of REALTORS® in California enforce the dues formula equally.

**Q 20. *Where can I obtain additional information?***

**A** C.A.R. members requiring specific advice should consult their local AOR. The C.A.R. Legal Hotline attorneys will not advise members on the NAR Variable Dues Formula in a manner that may conflict with the position of the local AOR.

### ***The Broker Compliance Tool***

**Q 22. *Do new NMSPs (Non-Member Salesperson) negatively impact our NMSP score?***

**A** New NMSPs are placed in the 60 day grace period and will not negatively impact your score for 60 days. You will receive a notification on your dashboard when new NMSPs appear on the BCT. The NMSPs will be date stamped and will continue to age at 15-day intervals for 60 days.

**Q 23. *What happens after the 60-day grace period?***

**A** On day 61 the non-members are considered delinquent and will negatively affect your NMSP compliance score. Non-members that are delinquent will be included in the "Total Due Now" count on the dashboard.

## ***Broker Compliance Tool Exemptions***

Members that are added to the exemption list will prevent the record from having a negative impact on the association's NMSP score. In order for members or non-members to be added to an exemption list, they must meet specific qualifications:

### **Q 25. *What are the qualifications for the Commercial exemption?***

**A** The office must be substantially all commercial, outside of the broker's primary association jurisdiction, and must not be the broker's main office. Before the exemption is added, the agent must be listed as an active non-member in M1.

### **Q 26. *What are the qualifications for the DRE exemption?***

**A** To qualify for this exemption, the agents license must be **licensed NBA, expired, suspended, or deceased** on the DRE's website. You can also request this exemption if an agent has decided to hang their license with a new broker. Before the exemption is added, the agent must be inactive in M1.

### **Q 27. *What are the qualifications for the Honorary Member for Life exemption?***

**A** To qualify for this exemption, the member should have already applied and been approved for the C.A.R. Honorary Member for Life status.

### **Q 28. *What are the qualifications for Secondary State Contiguous exemption?***

**A** To qualify for this exemption, the agent must be a REALTOR® in **Arizona, Nevada, or Oregon.**

**Q 29. *What are the qualifications for the Mid-Year Member Termination exemption?***

**A** To qualify for this exemption, the member must have already paid their dues and also have a payment record in M1 for the current billing year. This exemption can be added for members who have been inactivated or terminated due to COE violations or not attending orientation.