

## Avoid the Procuring Cause Trap

### What is Procuring Cause?

Procuring cause is a legal phrase meaning that action which initiated the unbroken chain of events leading to the sale of a property. If a real estate licensee shows a property to a potential buyer and that buyer eventually purchases the property the licensee might claim that they were the procuring cause of the purchase and are entitled to their commission. Furthermore, the law says they have a strong case.

Why is this potentially a problem for the property seller? Because most property buyers are unaware of procuring cause and buyers don't pay commissions, sellers do. The buyer may not know that the agent who showed them a property has trapped them into an obligation. They may think that there's no problem with negotiating directly with the seller and leaving the agent out of the loop.

But the law says that the agent was the cause of the sale and that they deserve to be compensated. If they find out that their buyer bought your house they're going to want you to pay them per your offer in the listing contract. Had you known the buyer was represented you very likely would have negotiated a different price, but now you're unprepared for this unexpected expense.

So as sellers how do we avoid the procuring cause trap? By countering every offer to purchase from unrepresented buyers with the state approved WB-44 and specifically including language addressing this issue. I.e. add words to the effect that, "Buyer warrants that they are unrepresented in this transaction. Buyer takes sole responsibility for any claims to commissions in this transaction. Buyer indemnifies Seller and Seller's agents against any such claims."

Please note that this information is not intended to be legal advice. If you have any questions regarding your offers to purchase and/or counter offers you should consult with a qualified real estate attorney.