

# REALTOR® Risk Management and Consumer Protection Report

## C.A.R. Meeting - Fall 2024

### Thursday, September 26

#### Legal Update - Gov Hutchinson

- Governor Newsom had until 9/30 to sign all of the new laws.
- [Link to 2025 New Laws](#) \*You will need to login to C.A.R. to access.

#### Settlement Update

##### AB 2992 - Real Estate Law: Buyer-Broker Representation Agreements

Beginning January 1, 2025, all licensees, even if you are not an MLS participant, need to have a buyer representation agreement. The NAR settlement only applies to residential properties and prior to showing. The CA law applies to residential, commercial and vacant land and the agreement needs to be signed prior to submitting an offer. The representation agreement cannot be longer than 3 months, except if the agreement was entered into between a real estate broker and a corporation, limited liability company, or partnership.

In an attempt to prevent future lawsuits with broker to broker compensation, C. A.R. has removed these forms and will not facilitate broker to broker compensation. C.A.R. is advising against it and recommending seeking professional advice from an attorney if you are wanting to continue this practice.

\* Important to explain exclusive vs. non-exclusive to your clients so they do not end up signing multiple agreements.

#### Regional Items

- Fire insurance continues to be an issue.
- Lack of education with new industry changes.
- Confusion and frustration with open houses. Some agents are asking visitors to sign in while others are not. Visitors not wanting to sign the open house sign in because they do not want to be solicited.
- There are testers showing up to open houses to see if agents are having visitors sign in. Testers calling agents to see if they will show homes without having them sign anything.
- Not all brokerages are using the new forms. Some are creating their own.
- Sellers not thoroughly completing disclosures and not provided disclosures/reports from when they purchased.
- Unlicensed TCs filling out forms and doing work they should not be doing.

#### Forms

##### New disclosure SB 1366 - Seller's receipt of domestic water storage tank assistance

A seller who received domestic water storage tank assistance or is aware that the real property received such assistance, and the real property currently still has the domestic water storage tank, shall deliver to the prospective buyer a disclosure statement. The disclosure required under this law relates to the circumstance where a seller's private water well went dry, or was destroyed, due to drought, wildfire, or other natural disaster and the seller received a specific type of assistance.

This is a TDS-related disclosure subject to all TDS applications, exemptions and statutory termination rights. The Seller Property Questionnaire will be revised to meet this disclosure requirement.

##### Seller Payment to Buyer's Broker (SPBB)

3.G(3) of the RPA will now include a box to check for "Seller payment for Buyer's obligation to compensate Buyer's Broker." The SPBB will no longer be used.

## Open Houses

As the listing agent/brokerage, use the Open House Visitor Non-Agency Sign In (OHNA-SI) or the Buyer Non-Agency Agreement (BNA) before you assist visitors in showing them the home. If you are going to create an agency relationship with a visitor, use the Property Showing and Representation Agreement (PSRA), Buyer Representation and Broker Compensation Agreement (BRBC) or comparable agreement, if your brokerage uses one.

**Buyer Confirmation of (Broker) Compensation (BCC)** – new form confirming the buyer has entered into an agreement with the Buyer’s Broker. Confirms compensation and that the agreement was in effect as of the date of acceptance of the purchase agreement.

## [Link to December Draft Forms](#)

\*You will need to login to C.A.R. to access.

\*\*Please email any feedback you have regarding the forms to [CARForms@car.org](mailto:CARForms@car.org)

## Dual Agency with a single agent

Task force was set up to look into this to see what steps, if any should be taken. It was determined at this time to request the Forms committee to revise or come up with a form that explains in greater detail what dual agency is and what the consumer can expect if they choose to have the listing agent represent them in a transaction.

## Unrepresented Buyers

A question was asked whether or not to take the “additional compensation” for an unrepresented buyer section out of the RLA. The majority appeared to want to leave it in for now.

There is some confusion as to what agents can and cannot do when there is an unrepresented buyer. Ask the question, “is it in the seller’s best interest?”

Quick guides available.

[Quick Guide - Unrepresented Buyers and Listing Brokers - Part 1](#)

[Quick Guide - Unrepresented Buyers and Listing Brokers - Part 2](#)

## [Link to C.A.R. Quick Guides](#)

\*You will need to login to C.A.R. to access.

## New 2025 Laws - [Link to 2025 New Laws](#)

### **AB 2622 - Contractors: Exemptions: Work and Advertisements**

The \$500 limit for unlicensed contractor work is raised to \$1000.

### **AB 2114 - Building Standards: Exterior Elevated Elements: Inspection**

Civil engineers are added to the list of inspectors who are authorized to perform inspections of wooden balconies and other elevated elements in multiunit buildings located within a common interest development.

### **AB 2579 - Balcony Inspections In Common Interest Developments**

Deadline for inspections extended until 2026 but not for condominium projects.

Extends the deadline for wooden balcony inspections and other elevated elements for buildings with 3 or more multifamily dwelling units from January 1, 2025, to January 1, 2026. However, there is no extension of the deadline for wooden balcony inspections for condominium projects which remains January 1, 2025.

### **AB 2016 - Probate**

Raises the limit of the small-estate exception, which allows for the distribution of estate assets outside of probate, to \$750,000. This law raises the current small estate exception from \$184,500 (when decedents passed after April 1, 2022) to \$750,000, but only as to real property that was the decedent’s primary

residence. This small estate exception previously applied to any type of real property including commercial, vacant land or any type of residential property, but is now eliminated for those types of properties.

## **Landlord/Tenant Laws**

### **AB 2801 – Tenancy: Security Deposits**

Beginning April 1, 2025, if you're a landlord and planning to deduct anything from the security deposit for repairs and cleaning, you will need to take photos of the unit prior to any repairs or cleaning and again after repairs or cleaning has been completed. The photos along with an itemized statement is to be provided to the tenant. For tenancies that begin on or after July 1, 2025, a landlord is to take photos of the unit immediately before, or at the inception of, the tenancy. Additionally, the landlord cannot mandate the tenant to pay for professional carpet cleaning or other professional cleaning services, unless reasonably necessary to return the premises to the condition that it was in at the inception of the tenancy, exclusive of ordinary wear and tear.

### **AB 2747 - Tenancy: Credit Reporting**

Beginning April 1, 2025, Landlords have an obligation to tell tenants they will report timely payments made by the tenant to credit reporting agencies, upon request. Subsequently, the tenant can request to discontinue the reporting. This only applies to properties with 15 or more units.

### **SB 1051 - Victims of Abuse or Violence: Lock Changes**

The bill would require a landlord to, at the landlord's expense and upon the eligible tenant's written request, change the locks of an eligible tenant's dwelling unit not later than 24 hours after the eligible tenant gives the landlord specified documentation

### **AB 2493 - Tenancy: Application Screening Fee**

The amount that a landlord charges for screening fees changes every year due to inflation. This year it is \$62.02. The new states that a landlord cannot charge a screening fee unless there is an available unit. If there are 10 applicants and one is chosen, the landlord must return the fee to those who were not chosen unless a screening policy is created by the landlord using objective criteria and provided to any tenant who applies. The landlord is required to provide a copy of the applicant's credit report.