

New Agency Disclosure Form Instructions

Effective May 1, 2015, the Commission will require a new Agency Disclosure Form to be provided to clients and customers. The new form is one page and greatly simplified from the current version, making it easier for licensees to explain it and easier for the public to understand.

First and foremost it should be noted that the laws regarding agency disclosure and agency duties have not been changed. Agency disclosure should still be provided at first substantial contact, further interpretation of first substantial contact was recently adopted by the Commission, and can be found here: <http://www.nrec.ne.gov/legal/policyinterpretation.html#pi38>

The May 1 date is the date licensees should start using the new form. If a client or customer completed the old form prior to May 1, and nothing has changed in the relationship, the old form will still be effective after May 1. in other words licensees will not have to redo their current agency disclosures done on the old form simply because the new form goes into effect on May 1.

Filling Out the New Form

The new form was developed with the intention that it be straightforward and easier to fill out. Most of the features of the form are intended to be self-explanatory, but licensees should have a good working knowledge of how the forms work and how to complete them.

There are three forms, a Buyer/Seller Agency Disclosure form, a Landlord/Tenant Form and a Common Law Agency Addendum (because common law agency is practiced less often and there simply was not room on the one page form for an explanation of it).

Buyer/Seller and Landlord/Tenant Form

The basic premise here is for the licensee to explain the capacity in which they are proposing to act for the customer or client and have them initial the appropriate box and sign the form. There are some additional details noted below (for ease of discussion the customer/client will be referred to as "consumer" where it is not necessary to make a distinction between the two):

It is a unified form, with no tear off portion to be left with the consumer like the old form had. Licensees should make a copy, keep the original for their records, and of course provide a copy to the consumer, or if no copier is available, it is acceptable to fill the form out twice.

Since the one page form has edited versions of agency responsibilities, the form has a link to more information about agency as well as general information for consumers on the Nebraska Real Estate Commission's website. We urge licensees to point this link out and advise consumers to review the information provided. The consumer page can be found here: <http://www.nrec.ne.gov/consumer-info/index.html>

There is room for two parties to sign and initial the form, if you are acting on behalf of more than two people please use additional forms.

If dealing with a customer the form is more straightforward than before, simply have the

customer or customers initial at the top of the customer box, and check within that box what capacity you are working as (buyer's agent, seller's agent, etc.)

Additional Information on the Form

The designated broker should put what services (if any) they will provide to an unrepresented customer on the back of the form, they may also put what types of brokerage services they offer as well as concise, factual wording regarding additional services they perform for clients in the various agency relationships.

Dual Agency

Licensees no longer have to mark potential dual agent on the disclosure form as has been advised in the past, dual agent will likely only be marked in a few situations on first substantial contact, such as when the licensee has a listing and is talking to a potential buyer for that listing who the licensee would represent as a buyer's agent. Please note that the required written disclosures and consent to dual agency would still be required when dual agency occurs, however, the agency disclosure form does not need to be redone, as the client will have been made aware of the dual agency capacity through the required written disclosures.

Common Law Agency

Because common law agency occurs less frequently, and in order to keep the main form simple, common law agency is dealt with through the use of an addendum.

Two thirds of the way down on the Buyer/Seller, and Landlord/Tenant main form is a place to check that the licensee will be acting as a common law agent, and in what capacity they are acting as a common law agent. Those spaces need to be checked on the main form, and the addendum, should be presented and explained to the consumer, filled out, signed, and attached to the main form. The licensee retains the original, copy to the consumer, or execute in duplicate.

Please note, that pursuant to Commission policy it is not required that a common law agent provide the agency disclosure form to an unrepresented customer, but that they may, and if they do, the form has information for the customer regarding who the common law agent is representing.

The new forms can be found on the Commission's website at:
<http://www.nrec.ne.gov/legal/brokeragerelationshipinfo.html>