

Mandatory Written Buyer Representation Contracts—Best Practices

With the passage of [LB 187 \(2025\)](#) all Nebraska real estate agents will be required to enter into a written buyer's representation contract before acting as an agent for a buyer in a residential sales transaction.

Specifically, effective July 1, 2025, Neb. Rev. Stat. §76-2422 is amended to read as follows:

Before engaging in any of the acts enumerated in subdivision (2) of Section [§81-885.01](#), a designated broker acting as a single agent for buyer for real property being used primarily for residential purposes where no fewer than one or more than four dwelling units are located shall enter into a written agency agreement with the party to be represented.

The new language changes the requirements regarding written buyer representation contracts from “may” (enter into a written agreement) to “shall”. The language mirrors the seller's agency agreement (listing agreement) rule regarding a written agreement being required before performing any acts as an agent.

BASIC REQUIREMENTS

- 1. An Agency Disclosure is Still Required** As with a listing agreement, the Commission's agency disclosure form should be presented for signature and explained to the potential client before any agency agreement is entered into, at the point of first substantial contact with the client¹
- 2. A Written Buyer Representation Contract Must Be Entered Into Prior to Acting as an Agent for a Buyer in a Residential Transaction** Acting as an agent includes showing a property to a buyer, negotiating for the purchase of a property for a buyer, or representing to the buyer or a seller that you are an agent of the buyer.

BEST PRACTICES

Establish your presentation to potential clients regarding agency disclosure and the written buyer representation contracts, make the practice routine and automatic, something you do every time, on autopilot if you will, so you don't need to focus so much on what you are saying but are still listening to any potential client questions or concerns.

PRACTICE TIP

The best way to start a conversation with a potential client is to, as soon as you realize they are a potential client, ask them if they are currently working with another agent. If their answer isn't clear, ask them follow up questions to clarify.

¹ See Commission [Policy and Interpretation #38](#) on first substantial contact

THE WRITTEN CONTRACT

The Nebraska Agency statutes set the basic parameters for what is required in the written buyer representation contracts in [Neb. Rev. Stat. §76-2422](#). All written buyer agency contracts must include **terms of compensation** and a **specific date of expiration**. The written contract must also contain the buyer's agent's statutory duties as provided in [Neb. Rev. Stat. 76-2418](#), this includes the duties of **exercising reasonable skill and care for the client**, **fiduciary duty** to the client, **presenting all offers** in a timely manner, and **disclosing in writing any adverse material facts** known to the buyer's agent. You must also provide your buyer with a signed copy of the written contract.

Don't Forget that Nebraska law prohibits the acceptance of compensation by a licensee until the transaction is consummated or terminated [Neb. Rev. Stat. 81-885.24 \(35\)](#)

BEST PRACTICES

1. Do not indicate to the buyer that they are legally obligated to sign the buyer contract. You may tell the buyer that you must have a signed contract before you can represent them. They are not required to sign the contract, but you are required to have signed contract before you can work with them.
2. If the contract is an exclusive contract explain this to the buyer.
3. Discuss the duration of the contract with your buyer, consider a short-term contract as you will often be meeting your client for the first time and asking them to sign a binding contractual obligation.
4. Include a box on the contract for the buyer to check indicating that they do not have any other current buyer agency contracts.
5. Explain the commission structure, especially any compensation buyer may be required to pay you in the transaction, including buyer agency fees not covered by offers of compensation by the seller's agent and any administrative fees.
6. Remember all compensation is negotiable, you should never tell a potential client you are required by law to charge a certain commission or fee. An agency agreement is contract between the parties, if the parties do not agree on the terms they can look elsewhere for services or clients.

WRAPPING UP THE DEAL

Because the offer of compensation from the seller's agent is unknown until the property is found and a deal is struck, the offer of compensation may be commemorated in the purchase contract or in a separate contract or addendum. The offer of compensation must not exceed the compensation provided for in the buyer agency contract.

If you are being compensated by more than one party in the transaction, such compensation must be disclosed, in writing, and signed by all parties at or before the time the contract is entered into [Neb. Rev. Stat. 76-2424](#).

BEST PRACTICES

The prevalent use of buyer representation contracts with buyer's agent compensation provisions is a fairly new practice. Closing companies also need to adjust to these changes. Make sure you provide the closing company with the documentation needed for proper distribution of commission payments on closing. Most closing companies will want a copy of the listing and buyer's representation contracts.

Best practice on a closing would be to show a buyer credit on the closing statement offsetting any seller payment of the buyer agency fee.

THE SELLER'S AGENT

Most of the discussion in the new world of buyer representation contracts has focused on the buyer's agent side, but the changes have implications for the seller's agent too. Because offers of compensation to buyer's agents were pre-established and not discussed when such offers were part of existing agreements between participants in local Multiple Listing Services, sellers may not be familiar with the topic of buyer's representation compensation.

BEST PRACTICES

1. Discuss offers of compensation with your seller, make sure they understand the pros and cons of such offers and agree to whatever approach will be taken.
2. Pre-establish a uniform offer of compensation for all buyer's agents, failure to do so could expose you, your brokerage, and your clients to anti-trust or fair housing lawsuits.
3. Pre-establishing an offer of compensation avoids the potential conflict of interest and complication created when compensation is being negotiated at the same time as the purchase.
4. Although it is not a Nebraska law, it should be noted that offers of buyer's agent compensation may no longer be published or otherwise disseminated through multiple listing services, per the requirements of the class action lawsuits regarding these practices.

IN CONCLUSION

The best advice the Commission can give is to remember to put your client's interests first, and assist them by providing them with the information they need to make informed decisions throughout the purchase process.