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Whether you are among the half of California licensees who have had their license for less than five years, or a veteran practitioner with over twenty, few changes are as dreaded as the forms that we use in the practice of our profession. For others of us this means “job security.”

With the sunset of the pandemic,” attention has been focused more on the “practice of real estate,” rather than the containment of contagions.

Of the many member benefits of belonging to the Greater San Diego Association of REALTORS® (SDAR), few are heralded as much as SDAR’s Risk Management Committee. This Committee is comprised of: (1) the best local real estate specific attorneys in the industry; (2) Brokers from various business models; and (3) frequent visits by various levels of law enforcement (including the California Department of Real Estate (DRE), the Federal Bureau of Investigation (FBI), and the San Diego District Attorney’s Office (DA).

SDAR monitors the content and use of forms at both the local and state levels; many of the forms designed at SDAR to protect our local REALTORS® make their way rapidly across the state and are “adopted” by C.A.R. Your input really does matter!

As you are aware, C.A.R. updates its forms normally twice per year; generally, this is in response to upcoming legislation and litigation. The key legislative dates are the first of the year (January), and mid-year (July). SDAR updates their forms on an as-needed basis, and those updates are continually in progress.

C.A.R. has released another “publish” of forms in the zipForm® library for May 2021. That one form is the Fire Hardening and Defensible Space Advisory, Disclosure and Addendum (C.A.R. Form FHDS). In addition, there are two other “new” forms, and 11 “revised” forms.

It is NOT OKAY to use your older forms here! All of the revised forms are intended to replace the previous forms to bring them into compliance with changes in legislation.

C.A.R. occasionally releases additional “soft publishes” (intended to fix inconsistencies and mistakes in existing forms), but these are definitely not “soft.”

Regardless of the type of “publish,” rest assured that in the zipForm® program those updates will **never alter/be added to a transaction that you have in process**. Updates are only applied in your “Forms Library”, your Templates, or, when you add an “updated” form to your transaction. Stay updated on the tools of your industry; you are doing that now!

So, how do we find these forms changes? It’s simple; watch for updates from YOUR Greater San Diego Association of REALTORS®!

What are these new changes and how are they going to affect you? Let us look at the June 2021 updates. There are three new forms:

1. **CFPB Disclosure of Potential Eviction Protections (C.A.R. Form CFPB)** — This new form (*already included in the C.A.R. library*) came about as a result of the federal requirement to notify a Tenant of the CDC Eviction Moratorium
2. **Fire Hardening and Defensible Space Advisory, Disclosure and Addendum (C.A.R. Form FHDS)** — This new form (*already included in the C.A.R. library*) is intended to replace the old Home Hardening form and goes deeper into statutory compliance to include how defensible space is addressed. This is a must-use form on properties that require a TDS.
3. **Transfer of Listing Agreement (C.A.R. Form TOL)** — This new form is intended to address situations where a Broker transfers listings/open escrows to another Broker. This usually when an Agent leaves the original Broker (who is willing to transfer the transaction) and is intended to avoid specific DRE violations that commonly occur during the transfer.

There are eleven revised forms:

1. **Agriculture Addendum (C.A.R. Form AGAD)** — This revised form is for use in the sale of real property on farm or ranch land. Hemp and cannabis cultivation were specifically added to the form; it is certainly recommended usage when doing a transaction that involves an “emblemment.”
2. **Cooperating Broker Compensation Agreement and Escrow Instruction (C.A.R. Form CBC)** — This form was re-written to be easier to understand and addresses many concerns among cooperating Brokers. Whenever there is to be an adjustment in the commission by or due a Broker, the Managing Broker must sign to authorize that change.
3. **Exempt Seller Disclosure (C.A.R. Form ESD)** — This form is to be used in those situations where the Seller is otherwise “TDS Exempt.”
4. **Lease Listing Agreement (Exclusive Authorization to Lease or Rent) (C.A.R. Form LL)** — This form has been revised to explain more clearly the commission being paid by the Owner’s Agent to the Agent representing the Tenant. It also (finally) clarifies that the responsibility to the property of the Broker is extinguished once the lease is created and that the Broker is not performing property management activities. Once again: When you define your duty; you limit your liability!
5. **Property Images Agreement (C.A.R. Form PIA)** — New language was added to this form specifically addressing the increased usage of drones and other aerial photography.
6. **Referral Fee Agreement (C.A.R. Form RFA)** — This form now changes that the referral fee is due upon entering into the contract, rather than for close of escrow.
7. **Residential Listing Agreement-Exclusive (C.A.R. Form RLA)** — This form has some changes that include addressing the often-complicated issue of “market time” (days on market). Even more importantly is the new language addressing

- “Buyer Interest Letters” and potential intentional versus unintended discrimination/bias. This form now contains instructions from the Seller on whether they will/not entertain such letters, as well as Brokers’ admonitions against them (and instructions to include that language in the MLS). Lastly, authorization is given to the Seller’s Agent to order the NHD report at the time of the listing (to allow the Seller to complete the FHDS form).
8. **Residential Listing Agreement–Open (C.A.R. Form RLAN)** — Same as the RLA.
 9. **Residential Listing Agreement–Seller Reserved (C.A.R. Form RLASR)** — Same as the RLA.
 10. **Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)** — Changes were made to the format of the form (consistent with the changes to other forms like the incoming RPA). Additionally, explanations were added to include the Fire Hardening form as well as sea level rise.
 11. **Seller’s Purchase of Replacement Property (C.A.R. Form SPRP)** — This form contains newer provisions for the Seller other than the *purchase* of a replacement property (e.g., moving into a rental or with a Family member)

It is recommended that you NOT use the previous versions of the forms above in your transactions!

Most of the information above is duplicative, so, hopefully not as daunting as one would first think.

We’ve all heard of C.A.R.’s User Protection Agreement, right? It only applies under certain conditions! So, protect yourself AND your Broker, by only using the current version of the forms.

On the agenda for the next publication are significant changes coming to the C.A.R. Form RPA (to go live December 2021).

And that’s it! Some significant changes, others that are minor, but the general thrust of it is that your Greater San Diego Association of REALTORS® is always looking out for YOU! At the end of the day, we all experience the highest level of protection from the hard work of the members SDAR’s Risk Management Committee, as well as the California Association of REALTORS®.

Thank you, all. Be profitable, and we will chat with you again in December!