

To: Indiana Issuing Agents
From: Central States Underwriting Department
Re: HEA1068 requiring listing agreements and buyer agency agreements

As we all know, there will be some changes coming in August to homebuyer representation agreements and commissions resulting from the NAR settlement agreement. Indiana, however, will get a head start navigating this revised landscape of homebuyer representation agreements when House Enrolled Act 1068 (“HEA 1068”) goes into effect on July 1, 2024.

On March 11, 2024, Indiana was among the first states to enact a state law requirement for written homebuyer representation agreements, with HEA 1068 gaining unanimous support from the Indiana legislature prior to being signed into law by Governor Holcomb. The intent of the law being to clarify broker compensation, educate homebuyers on the value realtors provide and ensure homebuyers (and agents/brokers) understand the working relationship between the homebuyers and their agent/broker.

While the provisions of the NAR settlement pertain only to those agents and listings licensed with the MLS, the new Indiana law is broader in scope seeking to level the playing field among ALL homebuyer representatives, both licensed and unlicensed with the MLS.

Effective July 1, 2024, homebuyer representation agreements must:

1. Be formalized in writing
2. Contain an expiration date so that the agreement is for a defined term
3. Be executed prior to showing properties, and if there are no showings be executed prior to an offer being submitted and negotiations beginning
4. Be provided to the homebuyer within three (3) business days of the time of signing (with a copy to be retained by the Broker)

These requirements create a *minimum* legal standard which is not inconsistent with any additional or differing requirements of the NAR settlement. The Indiana Association of REALTORS[®] has promulgated forms which comply with the changes to the law.

Below is the new language which will be added to the Indiana Code:

SECTION 2. IC25-34.1-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Chapter 12. Real Estate Agreements
Sec. 1. Listing agreements, or any authority to sell, shall show a definite date of expiration and shall be in writing, either on paper or in electronic format, with one (1) copy to go to the owner within three (3) business days of the time of signing. The original and all electronic files shall be retained in the office of the listing broker. Sec. 2. Buyer agency agreements, or any authority to represent a buyer, shall show a definite date of expiration and shall be in writing, either on paper or in electronic format, with one (1) copy to go to the buyer within three (3) business days of the time of signing. The original and all electronic files shall be retained in the office of the selling broker.

If you have any questions please do not hesitate to reach out to your Central States Underwriting team individually or email our underwriting inbox – CentralStatesUW@agentstitle.com.

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