

**THE NEW *DUTIES OWED* FORMS FOR NEVADA
FREQUENTLY ASKED QUESTIONS****Why are we changing the *Duties Owed* form?**

The current forms have created some confusion within the industry and the task force formed to look at the situation determined the new forms would be more easily understood by both the public and those within the industry.

Are we required to get the *Duties Owed* form signed by all parties for our file?

The law suggests that the “appropriate form” be provided to the parties. The Real Estate Division has determined that only a single “Duties Owed” form needs to be signed by each party to the transaction. The rationale is that the disclosure form is the same whether they sign a single form or multiple forms within the same transaction. The intent is to provide and assure that each of the parties has the “Duties Owed” form, not two or three duplicates of the same disclosure. This means that the listing agent only needs the seller’s signed disclosure form in the listing and transaction files and the buyer’s agent only needs the buyer’s signed form in the buyer representative and transaction files. However, if there is an unrepresented party to the transaction, the sole agent in the transaction needs to have a disclosure form signed by both the client and unrepresented party to the transaction and have evidence of the disclosure to both parties in the licensee’s transaction file. (See unrepresented parties below).

Is the licensee responsible for providing the *Duties Owed* form to unrepresented parties?

Yes. If you are a licensee in a transaction in Nevada, you are representing someone, even if acting only as a principal. If the other party is unrepresented by a licensee, you are responsible under Nevada law to provide the *Duties Owed* form.

Why has the *Confirmation of Agency* form been eliminated?

While *Confirmation of agency* is required by regulation (NAC 645.637), the *Form* itself is not. The Real Estate Division originally created the form to assist the industry as a courtesy because none of the purchase agreements contained the required *Confirmation of agency*. Now that most of the contracts (purchase agreements) contain the *Confirmation of agency*, a separate form is not required.

What if the contract or purchase agreement I use does not contain a *Confirmation of agency*?

Then the Real Estate Division would suggest that you add such confirmation to your purchase agreement, change to an agreement which includes a confirmation section or continue to use a separate form as long as the regulation requires it.

(NOTE: you will probably see the separate forms disappear after a while).

**THE NEW *DUTIES OWED* FORMS FOR NEVADA
FREQUENTLY ASKED QUESTIONS** *(continued from page 1)***What forms must I have signed at the time of taking a listing?**

Each licensee must have the **completed *Duties Owed* form** signed as soon as practicable but no later than the time of taking a written listing.

NOTE:

- A. The confirmation of agency relationship with the seller is disclosed on the top of the *Duties Owed* form and no additional confirmation of agency is required at the time of listing.
- B. The acknowledgement of possibly acting as an agent representing two or more parties in the transaction is now located as the last paragraph above the client/customer's signature block. (The client will initial the **may** or **may not** block thereby providing or not providing permission for a possible dual agency).

The *Consent to Act* form would additionally have to be completed and signed by the parties in the event that agent represents more than one party to the transaction.

When must I have the *Duties Owed* form signed?

Nothing has changed with respect to when the form must be signed. It should still be signed as soon as practicable but in no event later than the time of a written contract.

NOTE: *A written contract would include any brokerage agreement including listing agreements, buyer brokerage agreements, property management agreements as well as any purchase agreements and/or conforming lease agreements.*

When must the *Consent to Act* form be signed?

In the event that the licensee has the consent in principle initialed as "May" in the initial box at the bottom of the "Duties Owed" form, he must still obtain the signature on the "Consent to Act" form prior to the respective client's signature being placed on the contract.

Where do I get the new *Duties Owed* and *Consent to Act* forms?

All Division forms are available online at www.red.state.nv.us. Position your mouse onto *Frequently Used Forms* to open the drop-down menu, then click on *disclosure*. Select the *Duties Owed* and *Consent to Act* forms by clicking on 525 and 524, respectively.

When will the new *Duties Owed* and *Consent to Act* forms become effective?

The new forms have an effective date of May 1, 2005. This means that everyone should transition into the new form on that date. All transactions initiated on or after May 1, 2005 should include these new agency disclosure forms, and all disclosures made and files of transactions initiated on or after May 1, 2005 should include these new forms. For further information please contact the Division Compliance Section in Carson City at 775- 687-4280 or Las Vegas at 702-486-4033 or e-mail realest@red.state.nv.us.

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