

# NOVEMBER FORMS RELEASE: LET THE EXCITEMENT BEGIN!

What could be more exciting after Halloween than the November C.A.R. Forms Update/Release? Your C.A.R. Standard Forms Advisory Committee (SFAC) has been busy and some new and revised forms are scheduled for release on November 28. There are quite a few important and helpful changes you need to know about.

First, really good news for agents who handle short sale listings: The Federal Trade Commission (FTC) decided in July that it will not enforce the Mortgage Assistance Relief Services (MARS) rules provided the agents meet three criteria:

1. The agents are licensed and maintain good standing under state law.
2. They are acting in compliance with state law governing the practices of brokers and agents.
3. They are assisting or attempting to assist a consumer in negotiating, obtaining or arranging a short sale of a dwelling in the course of securing the sale of the consumer's home.

You might recall from my last update, the MARS rules had precipitated the release of four C.A.R. forms created to help agents comply with the FTC rules. The forms will remain available for those who feel compelled to use them (read: really like government regulation and forms), but the rest of us won't have to.

Second, as a result of a court decision earlier this year, the C.A.R. Independent Contractor Agreement (ICA) arbitration clause has been modified. A new form with updated language was released several months ago. C.A.R. also released an ICA Addendum that can be used to modify previous version of the ICA. If you have an interest in the legal issues involved you will find a discussion at <http://www.car.org/media/pdf/legal/standard-forms/565809/>.

There are quite a few "housekeeping" changes to the C.A.R. Forms in this release and in order not to bore those of you with a limited attention span (you know who you are) I am only going to address the forms with significant changes. The complete summary of the changes can be found at <http://www.car.org/legal/standard-forms/summary-forms-releases-chart/november2011formreleases/>.

## New Forms:

**ABAA – Additional Broker or Agent Acknowledgement Addendum**  
– When more than one broker or agent represents a principal, this form identifies the additional licensee.

**EL – Extension of Lease** – Used to extend a fixed term lease for a new fixed period of time. In my opinion, this is a huge improvement!

**OVS – Optional Verification of Electronic Signatures for Third Parties** – This form can be used to pacify lenders or escrow holders who question electronic signatures.

**WHS – Water Heater Statement**

**of Compliance** – For use in a TDS exempt transaction where no smoke detector statement is required. For example, with vacant land.

## The following forms have been revised:

**ADM – Addendum** – Modified so it can be used with a listing or buyer representation agreement.

**BMI – Buyer Material Issues** – Indemnity language for buyer failure to acknowledge material issues changed to representation that buyer has specified all material issues.

**CL – Commercial Lease Agreement** – If damage caused by tenant, landlord has the right to terminate but retains right to recover from tenant.

**CTT – Change of Terms of Tenancy** – Now requires tenant acknowledgement. A really important improvement!

**DRA – Denial of Rental Application** – New section added if denial was based on credit score. Language revised to comply with federal rule.

**HOA – Homeowner Association Information Request** – California law requires a new format and language regarding fees and reference to the relevant statutes.

**MCA – Market Conditions Advisory** – New paragraph added for appraisal contingency, buyer multiple offers and seller considerations. Seller signature block added.

**RLA – Residential Listing Agreement** – Exclusive – Listing broker given authority but not obligation of disclose terms of other offers received (Also applies to RLAA, RLAN)

**SA – Seller's Advisory** – Added language regarding Seller obligation to ask attorney if unsure how to disclose (When in doubt?). Added reference to Improvement Bond Act.

**SBSA – Statewide Buyer and Seller Advisory** – Added language regarding point of sale requirements, carbon monoxide detectors, underground pipes and medical marijuana.

**SPQ – Seller Property Questionnaire** – Added note to seller about getting legal advice on disclosure. New questions on leasing, gas pipelines, cell towers and power lines.

**SSIA – Short Sale Information and Advisory** – Added language about short sale anti-deficiency rules for senior and junior liens. Added language about third party short sale negotiators.

**TDS – Real Estate Transfer Disclosure Statement** – Added language about water conservation devices.

The Property Management Study Group will continue to meet through 2012, so you can expect more improvements to Property Management forms

in the coming year. In addition a new Study Group has been formed to review Probate forms, so standby for news from them! Finally a new Septic, Well and Property Boundary form will be introduced in April 2012 (in honor of Chris Anderson who serves brilliantly on the C.A.R. Sewer and Septic Study Group!). If you are interested, I can provide you with a copy of the draft form for your input.

Not to be outdone, the SDAR Risk Management Committee has updated the SDAR Addendum to the Purchase Agreement (APA) to remove items that are now included in the C.A.R. forms library. And, an update to the Local Area Disclosure Form (LAD) will be available shortly on the SDAR website (look under Membership/Education then Risk Management for all SDAR Risk Management Forms. The main change to the LAD was the addition of a new paragraph on Gas Pipelines.

As always, any suggestions you have for C.A.R. forms should be sent to [Carforms@car.org](mailto:Carforms@car.org). C.A.R.'s liaison to the SFAC (Joy Alafia) will ensure your suggestions are directed to either the SFAC or to one of the attorneys who helps with standard forms. If you have questions or concerns about the SDAR forms library, please notify Kate Speir ([kspeir@sdar.org](mailto:kspeir@sdar.org)).



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