

## Buyer Representation Agreements What's New and What's Not?

The use of buyer representation agreements became widespread in 2024 due to the requirements imposed by the NAR settlement. Then, on January 1st, 2025, AB 2992 went into effect, making buyer representations a requirement under California law. Since then, there has been some confusion about what rules apply going forward. Here is what REALTORS® need to know about how the settlement rules and new legal requirements apply to them.

### What are the differences between AB 2992 and the NAR settlement?

Key takeaway - AB 2992 does NOT supersede the NAR settlement which remains in force. Think of the new requirements from the law as existing alongside the settlement rules, *not* replacing them. In other words, since both sets of rules apply, the stricter requirements are what should be followed.

With that in mind, here are the significant differences between the rules as required by the NAR Settlement and the new requirements under California law.

- **Timing:** AB 2922 requires a buyer representation agreement as soon as practicable but no later than execution of the buyer's offer to purchase.
  - Compare: The NAR settlement requires a written agreement before showing a home when "working with a buyer."
- **Enforcement:** AB 2992 will be enforced by the Department of Real Estate (DRE). Violations can expose real estate licensees to discipline under the Real Estate Law.
  - Compare: The NAR Settlement relies on the MLS to enforce those terms applicable to it. Violations of other terms can potentially expose real estate licensees to a loss of the legal protection offered by the settlement and possibly legal action by the attorneys who brought the claims to which the settlement applies. DRE does not enforce the terms of the NAR settlement.
- **Scope:** AB 2992 applies to all real estate transactions including commercial, vacant land and 5+ residential
  - Compare: The NAR settlement encompasses residential 1 to 4 sales.
- **Term limitation:** AB 2992 voids buyer representation agreements if more than 3 months in length or made in violation of any provision of AB 2992.
  - Compare: The NAR settlement has no such provision; However, the C.A.R. forms incorporate the 3-month rule