

real estate transactions

# Using Standard Forms



RISK MANAGEMENT TIPS FROM PEARL INSURANCE

## Real Estate Forms: Making It Up As You Go Along?

Most real estate professionals agree that the use of standard forms for every real estate transaction you're involved in is your best mode of operation. Do you have at least the following standardized documents on hand for your day-to-day business?

- Purchase and Sale Agreements
- Lot or Land Purchase Contracts
- Disclosure Forms/Statements
- Addendums to Contracts and Purchase Agreements

## What's Wrong with Creating My Own Form?

There are at least a couple problems with using non-standard agreements (those you may have created or appended information to, or any you sign that are used by another agent involved in the real estate transaction). The first issue is that by designing your own real estate form, you are likely acting outside of your area of expertise. This is one of the No. 1 rules of risk management for real estate professionals: only do what you have been trained to do!

Secondly, involving a real estate form that you created on your own accord could lead to allegations in claims that you are practicing law. This is not included in the definition of real estate services under the policy, and would therefore not be covered in any claim that might arise because of it.

In a REALTOR® magazine ([www.realtor.org/realtormag](http://www.realtor.org/realtormag)) article by Robert Freedman, "Erect Barriers to Legal Liability," Seattle attorney Paul Stephen Drayna explains: "Any time your associates find themselves putting pen to a blank piece of paper, rather than just filling in blanks or checking boxes in a contract, that should be a red flag they could be engaging in the unauthorized practice of law."

## How Can Standardized Forms Help Me?

Your Pearl Insurance Errors and Omissions (E&O) policy's carrier, XL Insurance, prefers the utilization of standardized contracts. These should outline the services to be provided, the conditions attached to the provision of certain services, and who is responsible for said services. Using a standard form for your E&O transactions can help reduce or eliminate risk by clearly spelling out who is responsible for what.

In some cases, using standard forms may even earn you credits toward your E&O insurance premium. This is usually at the discretion of the insurance carrier and its underwriters.

## What Next?

As a real estate professional, your best bet is to implement state-specific real estate contracts in all of your transactions. These may be found through your local or state association—your state may even mandate the usage of certain standardized forms. If you find yourself in such a position where there is no legal language in a standard agreement referencing what your buyer or seller specifies—i.e., your client requests you add a clause to standard form—your proper course of action is to advise your client to seek a legal professional to draft the proper language.

*Information provided within this article is not to be taken as legal advice and is to be used for educational purposes only.*

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