

New CAR Form

In December , 2016, the California Association of Realtors released a new form entitled "*Buyer Early Occupancy Addendum*".

This form was designed to handle the situation where a buyer is taking possession of the property prior to the close of escrow. It is intended for usage for short term occupancy (less than 30 days). There is already a form entitled "*Interim Occupancy Agreement*" that is designed for longer term occupancy by the buyer. It should be noted that neither CAR nor you as a real estate agent, should ever recommend that a buyer take possession of the property prior to the close of escrow. There is a great deal of potential liability which should be avoided if at all possible. But often, buyers and sellers get together on their own and agree to let the buyer move in before the close of escrow. The new "*Buyer Early Occupancy Addendum*" was intended to provide a one page form to cover the various issues related to early move in by buyers. The "*Interim Occupancy Agreement*" is considerably more detailed and is appropriate for longer term occupancy.

While you should never recommend the buyer take possession before the close, if the buyer and seller agree to it, it is critical that there be a document to cover the various issues that arise as a result of this early possession. The Buyer Early Occupancy Addendum covers a number of important issues: 1) Consideration for the early occupancy; 2) Who is responsible to pay for utilities during this period; 3) Situations which would allow the Buyer access to the property during the rent back period; 4) Maintenance of the property during this term; 5) Insurance Issues; and 6) Other Terms and Conditions.

Directly above the signature lines for buyer and seller is a disclaimer which states that Brokers Do not Recommend Early Occupancy. It further advises all parties to consult with legal counsel to determine the legal consequences of early move in. And finally it indicates that if Buyer and Seller agree to early occupancy they are doing so against the advice of Broker and at their own risk.

This form was not designed to encourage buyers and sellers to agree to this early occupancy. It was developed to provide proper documentation for both buyer and seller in the event that they chose to go down this path.