



## Does a buyer's agent have to sign the lead-based paint addendum?

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**QUESTION:** I am representing a buyer who has submitted an offer on a property. The offer included the Lead-Based Paint or Lead-Based Paint Hazard Addendum (form 2A9-T) since the house on the property was built prior to 1978. The listing agent called me to say that I need to sign the Addendum along with my clients. I have never signed this Addendum when acting as a buyer's agent and I don't understand why I should have to. Isn't it the listing agent's job to make sure that the seller is aware of and complies with the lead-based paint disclosure rule?

**ANSWER:** We understand your concern but the [Lead-based Paint Disclosure Rule](#) adopted by HUD and the EPA applies not only to listing agents but to buyer agents as well, with one exception explained below.

The Rule states that if an agent is involved in a transaction to sell target housing, the "Lead Warning Statement" must include a statement signed by the agent that the agent has informed the seller of the seller's legal obligations and that the agent is aware of his/her duty to ensure compliance with the Rule. Who is covered by the term "agent?" In the Rule, "agent" is defined as "any party who enters into a contract with a seller or lessor, *including any party who enters into a contract with a representative of the seller or lessor*, for the purpose of selling or leasing target housing" (emphasis added). Since there is a contract between a listing agent and a buyer agent who accepts the listing agent's offer of compensation to cooperate in the sale of the listed property (typically established through MLS), in our view, a buyer agent falls within the definition of "agent" and is thus covered by the Rule. That is why an "Agent" signature line appears immediately under the "Buyer" signature lines on the Addendum.

What's the exception? The definition of "agent" goes on to provide that the term "does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser." Thus, a buyer agent who is paid exclusively by the buyer is not covered by the Rule and would not be required to sign the Addendum.

Since most buyer agents are covered by the Rule, it's important that they make sure sellers comply with the Rule. The buyer agent should review the Addendum to confirm that it has been completely filled out and make sure that all obligations have been performed (for example, the buyer has received a copy of any reports identified in the Addendum as well as a copy of the *Protect Your Family from Lead in Your Home* brochure). An agent who complies with their obligations under the Rule will not be liable for a seller's failure to disclose the presence of lead-based paint or lead-based paint hazards known to the seller but not disclosed to the agent.

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