

Finder's fee agreement

Use of the finder's fee agreement

Finders are unlicensed individuals whom brokers, agents on behalf of brokers or owners enter into fee arrangements with to perform a very limited real estate related service. In exchange for a fee, the finder identifies prospective clients, be they sellers, buyers, lenders, borrowers, tenants or landlords.

Finders, unlike licensed real estate sales agents, are true independent contractors since finders are authorized by statute to collect a fee directly from the principal, and sales agents are not. However, unlike brokers, sales agents and principals, the finder may not participate in the dissemination of information on any property or in any transactions, or involve themselves in any negotiations.

If a principal instead of a broker enters into a fee agreement with a finder, the party named as broker in the form is merely re-identified as the principal (be he an owner, seller, lender, etc.).

Analyzing the finder's fee agreement

The finder's fee agreement has four sections. Each section has a separate purpose and need for enforcement, explained as follows:

1. *Service to be rendered:* A broker, or a sales agent on behalf of the broker, employs a finder to locate individuals interested in a real estate related transaction and refer the individuals to the broker as prospective clients. Services of the finder are limited to the referral of the individual(s) while the broker retains control over the gathering

and handling of all property information, client confidentialities and negotiations. This section sets forth the conduct permitted for each party.

2. *Identification of potential clients:* The finder identifies the prospective client and the property involved, if applicable, such as with a seller, landlord or lender, etc.
3. *Finder's fee:* The amount of the fee due the finder and when the fee will be payable is set solely by negotiations between the broker/agent and the finder. No limits exist and no formula is prohibited to set the amount of the fee or when the fee will be paid. However, brokers tend to set a time period for the expiration of the finder's right to earn further referral fee(s) on future transactions entered into by the client the finder located and referred to the broker. Conversely, the finder usually seeks to be paid on all deals with the prospective client, forever.
4. *Signatures:* Both the broker or his agent and the finder sign the agreement to form a binding and enforceable understanding of the relationship between the broker and the finder.

Preparing the finder's fee agreement

The numbers on the instructions correspond to the numbers for the provisions in the form.

Note — Check and enter items throughout the agreement in provisions with boxes and blanks, unless the provisions are not intended to be included as part of the final agreement.

Identification: **Enter** the date and the place the agreement is prepared. This is the date is used to reference this document.

1. *Type of client sought:* **Check** the box for the type of prospective client finder is to refer to broker.

2. *Participation in negotiations:* Finder agrees not to participate in any negotiations or to solicit loans. If he does, the finder may not enforce collection of the agreed-to compensation since a broker's license is required to provide property information, collect information from the client or negotiate a transaction and collect a fee.

2.1 Finder acknowledges he is not a real estate licensee. A licensed individual operates under his license and receives compensation in real estate transactions as a licensee. Thus, brokers referring clients to principals simply enter into a listing/employment agreement with the client or the principal. Likewise, brokers and their agents referring clients to another broker use a fee-sharing cooperating broker agreement. [See [first tuesday Form 105](#)]

Licensed sales agents are employed by a broker who receives the fee and shares it as agreed with the agent. A licensed sales agent cannot directly receive a fee from a principal, but a finder can.

3. *Identification of prospective clients:* **Enter** the name, address and telephone number of the prospective client finder is referring to the broker.

If additional prospective clients are to be covered by the agreement, such as buyers who are now known or will be located in the future, use an addendum

to add names or to later include others. [[first tuesday Form 250](#)]

4. *Information on property:* **Enter** the common street address of the real estate in question.

Enter the legal description or assessor's number for the property, information which can be obtained from a copy of a recorded deed or a title insurance policy on the property, or from any title company on request.

5. *Payment of finder's fees:* **Enter** the dollar amount or percentage in the blank to set the amount of the finder's fee. The amount of the fee may be set by a fixed dollar amount (§5a), a percent of the broker's commission (§5b), a percent of the purchase price (§5c), or some other agreed-to method of determining payment (§5d). No limit exists on the amount paid or the number of referrals a finder can be paid for.

6. *Fee earned and payable:* **Check** the box indicating when the fee has been earned by the finder and is due and payable by the broker. Box **a** indicates a transaction brought about by this agreement must close before the broker is liable to the finder for payment of a fee. If Box **b** is checked, enter in the blank the event other than closing which triggers payment of the finder's fee.

6.1 *Expiration of finder agreement:* **Enter** the number of months during which this agreement remains in effect, after which the finder will not receive a fee for subsequent transactions with the prospective clients he referred under this agreement.

7. *Additional terms:* **Enter** any additional terms agreed to between the finder and the broker.

Brokerage information: **Enter** the name, office address and telephone number of the contracting broker, and the date the broker or his agent signed. **Obtain** the signature of the broker or his agent.

Finder's signature and date: **Enter** the finder's name, address, telephone number and social security number, and the date the finder signed. **Obtain** the signature of the finder.