

Seller's Required Disclosures - By Jurisdiction

Executive Summary

SELLER'S REQUIRED DISCLOSURES

ANNUAL REPORT EXECUTIVE SUMMARY

May 2020

Overview

Seller's disclosure rules vary dramatically across the surveyed jurisdictions. Approximately five percent of the surveyed jurisdictions have no apparent generally applicable seller's disclosures provisions, while the other jurisdictions show remarkable variability in their disclosure rules. Of the surveyed territories, only Guam requires real property sellers to make generally applicable disclosures.

Seller's Disclosure Form

Of the states that explicitly require a written disclosure, a majority specify the form in which this disclosure should be given. The remaining jurisdictions require the disclosure to meet certain requirements or offer a suggested, recommended, or optional form. In 2018 South Carolina and Wisconsin significantly revised their disclosure forms. In 2019, North Dakota enacted its first law requiring a seller to complete a disclosure for to be created by the Real Estate Commission. During the past year, Maine, Kentucky, and Virginia substantially revised their forms.

Agent's Obligations Regarding Seller's Required Disclosures

Agents' obligations regarding their sellers' disclosures vary widely. Approximately 24 percent of the surveyed jurisdictions place no obligation on agents that are specifically related to a seller's required disclosures; the remaining states, however, display a variety of regulatory plans.

Unusual Disclosure Requirements

All jurisdictions were surveyed for provisions related to the presence of radon and lead, as well as proximity to airports, Superfund sites, and earthquake zones.

Thirty-eight jurisdictions require or suggest radon disclosures or notices, and 36 jurisdictions have state-law requirements or suggestions regarding lead disclosures or notices. North Dakota joined those states in 2019. Maine added radon as a hazardous material that must be disclosed. On the proximity issues, eight jurisdictions require disclosure of airports in the area. However, five other states require disclosure of noise sources, which implies airports. Only California and Oregon require specific disclosure of earthquake zones, although other states require disclosure of soil slippage, upheaval, settling, or prior earthquake damage. No states require disclosure of Superfund sites in the vicinity, but most legislating jurisdictions mandate other environmental disclosures that could encompass such sites.

During 2018, the following significant changes occurred:

- California enacted a law requiring the owner of an EV-dedicated TOU meter placed in a common area or an exclusive use common area of a common interest development to disclose to prospective buyers the meter's existence and information regarding the owner's related responsibilities:
- Connecticut revised its disclosure form to reflect specific foundation disclosures enacted in June 2017;
- a Florida 2018 session law, which appears to be uncodified, requires disclosures regarding the Water Street Tampa Improvement District's right to impose taxes, fees, and assessments;
- Indiana deleted the fact that an occupant was afflicted with or died from a disease related to the human immunodeficiency virus from the definition of "psychologically affected property;"
- Maine enacted a law providing that unless a transaction is exempt, the seller of nonresidential real property must disclose certain information regarding abandoned roads;

- Maryland added a requirement for certain developments that a contract for the initial sale of a new home must contain an acknowledgment that the home builder provided the purchaser with written information about energy-efficient options;
- Missouri enacted a law providing that if any premises is or was contaminated with radioactive material or other hazardous materials, the transferor must disclose that fact in writing if the transferor has knowledge of the contamination;
- South Carolina (1) added requirement that whether property is governed by HOA must be disclosed; (2) amended disclosure form to require a description of any green energy, recycling, sustainability or disability features of the property; and (3) added the required disclosure of designation as historic building, landmark or location within a historic district or other restrictive district which may limit changes to or demolition of the property;
- Washington enacted a law requiring a seller to provide notice that no-cost insurance from the Pollution Liability Insurance Agency may be available if the property uses oil tank for heating purposes; and
- Wisconsin added several new disclosure provisions including whether there are burial sites on the property, unsafe levels of mold, or defects in, as opposed to mere presence of, underground or above-ground fuel storage tanks.

The following substantial changes occurred during 2019:

- California enacted additional provisions regarding disclosures and documentation when property to be transferred is located in high or very high fire severity security zones;
- Connecticut added a mandatory Residential Foundation Condition Report for certain property transfers effective October 2019;
- the District of Columbia added a disclosure requirement for lead water service lines;

- Louisiana added questions to its disclosure form regarding existence of polybutylene piping and aluminum wiring and revised the phraseology of questions and answer options overall;
- Maine (1) added a required disclosure of the date of most recent inspection of chimneys and heating system vents; (2) added radon, methamphetamine and underground oil storage tanks as specific required hazardous material disclosures; (3) amended the disclosure for nonresidential property access roads; and (4) amended the disclosure related to subsurface waste water disposal within shoreland areas;
- Oregon amended its nondisclosure provisions related to HIV and AIDS, expanding the terminology to "blood-borne infection;"
- Rhode Island added specific disclosures related to mold;
- Tennessee added requirement that seller disclose future obligation to connect to public sewer;
- Texas greatly expanded its flood-hazard disclosure requirement;
- Virginia renumbered and recodified all its disclosure provisions; and
- Washington added a "possible proximity to working forest" disclosure requirement.

Flood-Related Disclosures

Thirty-six of the surveyed jurisdictions have state-mandated flood-related disclosure requirements. Most of those jurisdictions merely require disclosure of previous flooding, any resulting property damage to the property and/or whether the property is in a floodplain/flood hazard area. A handful

of states, such as Delaware, Indiana, Louisiana and Michigan also require the seller to disclose information regarding any current flood insurance on the property.

Alabama

Alabama, Agent's Obligations Regarding Seller's Required Disclosures

A licensee has no duty to discover the existence of any private transfer fee obligation that the seller must disclose.

Section enacted 2011.

[Ala. Code § 35-4-435 \(2018\)](#)

The Alabama Real Estate Commission may discipline a licensee for "[m]aking a material misrepresentation, or failing to disclose to a potential purchaser or lessee any latent structural defect or any other defect known to the licensee. Latent structural defects and other defects do not refer to trivial or insignificant defects but refer to those defects that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease."

Amended 2009.

[Ala. Code § 34-27-36 \(2018\)](#)

Alabama, Flood-related Disclosures

No relevant provisions were located.

Alabama, Other Relevant Provisions

No relevant provisions were located.

Alabama, Seller's Disclosure Form

Research located no Alabama statutes or regulations requiring a real estate seller to disclose information to a prospective buyer.

Alabama, Unusual Disclosure Requirements

PRIVATE TRANSFER FEES

A contract for the sale of real property that is subject to a private transfer fee must:

- disclose the obligation's existence;
- describe the obligation; and
- state that private transfer fee obligations are subject to certain prohibitions.

NON-AD VALOREM ASSESSMENTS

Effective September 1, 2015, the "Property Insurance and Energy Reduction Act of Alabama" provides that at or before the time a purchaser executes a contract for the sale and purchase of any real property for which an unpaid balance is due on a non-ad valorem assessment, the seller must give the prospective purchaser a written disclosure statement in the statutory form. The disclosure statement must be set forth in the contract or in a separate writing.

Section 35-4-435 enacted 2011; § 11-81-245 enacted 2015.

[Ala. Code §§ 11-81-245; 35-4-435 \(2018\)](#)

Alaska

Alaska, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located. However, a licensee must disclose to a buyer that a murder or suicide occurred on the property if:

- it occurred within one year before the date the licensee first showed the buyer the real estate; and
- the licensee knows that the murder or suicide occurred on the property.

Section enacted 2004.

[Alaska Stat. § 08.88.615 \(2019\)](#)

Alaska, Flood-related Disclosures

The Alaska mandatory seller disclosure form requires the owner to disclose the following flood-related items:

- whether the property has flooded;
- the floodplain designation; and
- whether the owner is aware of any damage to the property from flooding.

Form amended 2008.

[Residential Real Property Transfer Disclosure Statement \(July 2008\)](#)

Alaska, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

Before a buyer makes or accepts an offer, a real estate licensee must disclose to the buyer that a murder or suicide occurred on the real property if:

- the murder or suicide occurred within one year before the date that the licensee first showed the real estate to the buyer; and
- the licensee is aware that the murder or suicide occurred on the real estate.

The disclosure statement must include a provision that notifies transferees:

- that they are responsible for determining whether a sex offender resides in the vicinity; and
- where the buyer may obtain information about the location of convicted sex offenders.

Section 34.70.050 amended 2001; § 08.88.615 enacted 2004.

[Alaska Stat. §§ 08.88.615, 34.70.050 \(2019\)](#)

Alaska, Seller's Disclosure Form

Unless exempt pursuant to Alaska Stat. §§ 34.70.120 or 34.70.010, a real property seller must deliver to a buyer a completed written disclosure statement in the form established under § 34.70.050. The "Residential Real Property Transfer Disclosure Statement" includes the information that a transferor of a residential real property interest must disclose to a prospective transferee before the transferee makes a written offer. Use of the form also complies with Alaska's laws requiring notice to the transferee to conduct investigations regarding:

-

convicted sex offenders residing in the neighborhood; and

- whether an agricultural facility or operation is in the vicinity.

A form for Alaska's [Residential Real Property Transfer Disclosure Statement](#) is available online.

Statutory sections enacted 1992; regulation amended 2008; form amended 2008.

[Alaska Stat. §§ 34.70.010, .120 \(2019\); Alaska Admin. Code tit. 12, § 64.930 \(2019\)](#)

Alaska, Unusual Disclosure Requirements

RADON

The mandatory form requires a seller to disclose whether he is aware of any substances that may be an environmental hazard, including radon gas.

LEAD-BASED PAINT

The mandatory form requires a seller to disclose whether he is aware of any substances that may be an environmental hazard, including lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. However, the mandatory form requires a seller to disclose and explain whether he is aware of any noise or sound disturbances that affect the property, including airplanes.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the mandatory form requires a seller to disclose and explain whether he is aware of a waste disposal site or a gravel pit within a one-mile radius of the property, in addition to several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones, although the mandatory form requires a seller to disclose:

- whether he is aware of any permafrost or other soil problems that have caused settling, slippage, or sliding; and
- whether the property has been damaged by an earthquake.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Property that a law enforcement officer has determined constitutes an illegal drug manufacture site may not be sold or transferred until it has been determined to be fit, unless full written disclosure is made to the buyer that the property has been determined to be an illegal drug manufacturing site and has not been determined to be fit for use. The disclosure must be attached to any earnest money receipt and shall accompany the transfer or sale document, but may not be recorded. Also, the mandatory form requires a seller to disclose whether he is aware of any substances that may be an environmental hazard, including by-products from the production of methamphetamines on the property.

OTHER UNUSUAL REQUIREMENTS

Agricultural facilities

The disclosure statement must include a provision that notifies transferees that they are responsible for determining whether there is an agricultural facility in the vicinity that might produce "odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts."

Unusual requirements included in disclosure form

The mandatory form requires a seller to disclose:

- any frozen water or sewer lines, drains, or heating systems;
- any underground storage tanks;
- any noise or sound disturbances that affect the property, including trains, dogs, traffic, race tracks, or neighbors;
- whether the property is in an avalanche zone;
- any damage to the property from natural causes, such as flood, landslide, avalanche, high winds, or fire;
- whether he has filed an insurance claim for any environmental damage to the property;

- any grading, excavation or fill; and
- any pets or animals in the house.

Other notices

The seller must also provide notice to the buyer to conduct investigations regarding:

- convicted sex offenders residing in the neighborhood; and
- whether an agricultural facility or operation is in the vicinity.

Documents

Note that the seller must also indicate certain documents that the seller has available for review, including the following, among others:

- an energy rating certificate;
- soils tests;
- well log and water tests;

- water rights certificate; and
- hazardous materials tests.

Utility costs

The seller must also indicate the average annual utility costs.

Statutory section 34.70.050 amended 2001; § 46.03.500 amended 2006; form amended 2008; regulation amended 2008.

[Alaska Stat. §§ 34.70.050; 46.03.500 \(2019\); Residential Real Property Transfer Disclosure Statement \(July 2008\); Alaska Admin. Code tit. 12, § 64.930 \(2019\)](#)

Arizona

Arizona, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located.

However, “[a] licensee participating in a real estate transaction shall disclose in writing to all other parties any information the licensee possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including . . . [a]ny material defect existing in the property being transferred.

Amended 2005.

[Ariz. Admin. Code R4-28-1101 \(2019\)](#)

Arizona, Flood-related Disclosures

The state's statutes address the following flood-related disclosures:

- an affidavit of disclosure required by § 33-422, which must be provided by a seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel, must include a statement regarding whether part or all of the property is located in a FEMA-designated regulatory floodplain, and if the property is in a floodplain, a statement that it may be subject to floodplain regulation; and
- a disclosure report addressed by § 33-423, which may be provided by an authorized third party and must be based on officially adopted and electronically posted or otherwise readily available governmental maps or information, may disclose whether the real property is in a special flood hazard area designated by FEMA, among other topics.

Section 33-423 amended 2016; § 33-422 amended 2011.

[Ariz. Rev. Stat. §§ 33-422, -423 \(2019\)](#)

Arizona, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A buyer may not bring an action against a seller of real property or his licensee for failing to disclose that the property is or has been:

- the site of a natural death, suicide, homicide or other felony;
- owned or occupied by a person exposed to HIV or diagnosed with AIDS or any other disease that is not known to be transmitted through occupancy of a dwelling; or

- located in the vicinity of a sex offender.

Section amended 1999.

[Ariz. Rev. Stat. Ann. § 32-2156 \(2019\)](#)

Arizona, Seller's Disclosure Form

Research located no Arizona statutes or regulations generally requiring a real estate seller to disclose information about property to a prospective buyer, other than those specific requirements otherwise set forth in this survey. However, a seller of five or fewer parcels of unsubdivided land in an unincorporated area of a county must furnish a written affidavit of disclosure in the form set forth by Ariz. Rev. Stat. § 33-422.

A [Residential Seller's Property Disclosure Statement \(Oct. 2017\)](#) form and a [Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards \(Sales\)](#) form, as recommended by the Arizona Association of Realtors, are available online.

Section amended 2011.

[Ariz. Rev. Stat. § 33-422 \(2019\)](#)

Arizona, Unusual Disclosure Requirements

RADON

No specifically relevant provision was located. However, a disclosure report provided to a buyer or seller by a third party must be based on official and readily available information that discloses whether the real property is subject to "radon gas potential zones." Also, the Arizona Association of Realtors' recommended form provides for disclosure of the presence of radon gas.

LEAD-BASED PAINT

Research located no state law or regulation specifically requiring a seller to disclose the existence of lead-based paint. However, the Arizona Association of Realtors recommends lead-based paint disclosures if the home was built before 1978.

LOCAL AIRPORTS

Research located no provision generally requiring a seller to disclose the location of local airports. However, the affidavit required of a seller of five or fewer parcels of unsubdivided land in an unincorporated area must disclose whether the property is located in the clear, high noise or accident-potential zones of a military airport or ancillary military facility. A disclosure report provided to a buyer or seller by a third party must be based on official and readily available information that discloses whether the real property is subject to "public and private airports that are approved by the federal aviation administration," military airports, ancillary military facilities, and military training routes. Also, the Arizona Association of Realtors' recommended form provides for the disclosure of airport noise, in addition to traffic, rail-line, and neighborhood noise.

A residential real estate seller must provide to the purchaser, before the transfer of title, a written disclosure if the property is located "in the vicinity of a military airport or ancillary military facility" as indicated on a map prepared by the state land department. However, this provision does not require additional disclosures from a residential real estate seller who has provided the disclosures in a public report pursuant to §§ 32-2183 or 32-2195.05.

LOCAL SUPERFUND SITES

Research located no statute specifically requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.) Also, a disclosure report provided to a buyer or seller by a third party must be based on official and readily available information

that discloses whether the real property is subject to "environmental hazard superfund sites." The Arizona Association of Realtors' recommended form asks whether the seller is aware if the property is located within a superfund area.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, a seller's disclosure affidavit must disclose whether the property is subject to fissures or expansive soils. The Arizona Association of Realtors' recommended form includes a notice regarding the availability of earth fissure maps from the Arizona Department of Real Estate.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Arizona Association of Realtors' recommended form provides for the disclosure of knowledge regarding whether the property has ever been used as a "clandestine drug laboratory," which parenthetically includes the "manufacture of, or storage of, chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD." It also includes a notice regarding the availability of a list of unremediated sites and contact information to determine if the property has been remediated.

OTHER UNUSUAL REQUIREMENTS

Mold

The Arizona Association of Realtors' recommended form provides for mold disclosures.

Soil remediation

An owner of property that has been subject to soil remediation must give a buyer written notice of any known remediation. However, written notice is not required if the remediation attains standards for residential uses. In this context, "residential uses" means:

- uses of remediated property with dwellings where residents may reasonably be in frequent and repeated contact with soil; or
- uses of other remediated property where people are reasonably expected to be in frequent and repeated contact with soil, such as child care centers and elementary schools.

Water

The affidavit of disclosure must also disclose whether the property is "served by a water supply that requires the transportation of water to the property."

Water Rights

The affidavit of disclosure required of a seller of five or fewer parcels of unincorporated land in an unincorporated area must disclose whether the property or water on the property is the subject of a statement of claimant for the use of water in a general adjudication of water rights. It must also contain the following statement: "This is a lawsuit to determine the use of and relative priority of water rights. A map of adjudicated areas is available at the website of the department of water resources."

Solar Devices

The affidavit of disclosure required of a seller of five or fewer parcels of unincorporated land in an unincorporated area must disclose whether the property has one or more solar

energy devices that are owned or leased and if leased, the name of the leasing company. The affidavit must contain the following notice:

"Notice to buyer: If the property contains solar energy devices, it is the responsibility of the buyer to verify the proper replacement and disposal method for the devices, as applicable. If the solar energy devices are leased, the seller or property owner shall disclose the name and contact information of the leasing company."

Unsubdivided land

The affidavit required of a seller of five or fewer parcels of unsubdivided land in an unincorporated area must disclose whether:

- the property is located in a military electronics range; and
- the property's use is limited in "any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order or a pending legal action."

Swimming pools

A person entering into an agreement to sell, rent, or lease a dwelling with a swimming pool or a contained body of water must give the buyer, lessee, or renter a notice explaining safety education and responsibilities of pool ownership.

Excavated soil disposal sites

A property owner who has actual knowledge that the property has been used to dispose of excavated soils that do not meet predetermined residential soil remediation levels or

remediation standards for residential exposure assumptions must, before transferring ownership, give written notice to the buyer that the disposal of the excavated soils do not meet predetermined residential soil remediation levels or remediation standards for residential exposure assumptions.

Section 36-1681 enacted 1990; § 33-434.01 enacted 1995; § 49-701.02 amended 2003; § 28-8484 amended 2006; § 33-422 amended 2019; form amended 2017.

[Ariz. Rev. Stat. § 33-422, -434.01; 28-8484; 33-1806; 36-1681\(E\); 49-701.02 \(2019\); Ariz. Ass'n Realtors, Residential Seller's Property Disclosure Statement \(Oct. 2017\)](#)

Arkansas

Arkansas, Agent's Obligations Regarding Seller's Required Disclosures

"A licensee shall exert reasonable efforts to ascertain those facts which are material to the value or desirability of every property for which the licensee accepts the agency, so that in offering the property the licensee will be informed about its condition and thus able to avoid intentional or negligent misrepresentation to the public concerning such property."

No other generally relevant provisions were located. However, with respect to methamphetamine disclosures, after property contaminated by controlled substances manufacturing is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, "no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination." This suggests that disclosure may be required if the contaminated property has not been remediated.

Statutory section enacted 2007. Regulation amended 2016.

Ark. Code § 8-7-1406 (LexisNexis 2019); [Ark. Real Estate Comm'n, Real Estate Regulations § 10.6 \(Jan. 2018\)](#)

Arkansas, Flood-related Disclosures

No relevant provisions were located.

Arkansas, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The existence of any fact, circumstance, or suspicion that a property might be or is psychologically impacted is not a material fact that must be disclosed in a real property transaction.

"Psychologically impacted" includes that the real property was the site of a homicide, suicide, or felony.

No cause of action arises against a licensee as agent of an owner or a buyer for the failure to inquire about, make a disclosure about, or release information about any fact or circumstance that indicates that the real property is psychologically impacted.

Section enacted 2003.

Ark. Code § 17-10-101 (LexisNexis 2019)

Arkansas, Seller's Disclosure Form

Research located no Arkansas statutes or regulations requiring a real estate seller to disclose information to a prospective buyer.

Arkansas, Unusual Disclosure Requirements

RADON

No specifically relevant provision was located.

LEAD-BASED PAINT

Research located no state law or regulation generally requiring a seller to disclose the existence of lead-based paint. However, for HOME Investment Partnerships Program homes, Arkansas regulations require all homebuyers of pre-1978 properties to receive:

- a Lead Disclosure statement from the seller; and
- the pamphlet, "Protect Your Family From Lead in Your Home."

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no statute specifically requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located. However, Arkansas law specifies under what circumstances drug-lab contamination disclosures are *not* required.

If property contaminated by controlled substances manufacturing is remediated and the property owner receives official notification from the Arkansas Department of Environmental Quality, "no person, including the property owner, landlord, and real estate agent, is required to report or otherwise disclose the past contamination." This suggests

that disclosure may be required if the contaminated property has not been remediated. Also, the Arkansas Department of Environmental Quality must maintain records concerning properties contaminated through the manufacture of controlled substances. Among other things, the department will create a list of properties contaminated through the manufacture of controlled substances, place contaminated property on the list and remove property from the list if it has been "adequately remediated."

OTHER UNUSUAL REQUIREMENTS

No other unusual requirements were located.

Section 8-7-1406 enacted 2007; § 8-7-1404 amended 2009; regulatory exhibit amended 2014.

Ark. Code §§ 8-7-1404, -1406 (LexisNexis 2019); 109-04 Ark. Code R. § 5 (2019)

California

California, Agent's Obligations Regarding Seller's Required Disclosures

DISCLOSURE DELIVERY

If more than one broker is acting as an agent in a transaction subject to article 1.5, the broker who has obtained the buyer's offer generally must deliver the required disclosure to the buyer, unless the seller has indicated otherwise in writing. If the broker responsible for delivering the disclosures cannot obtain the disclosure document and does not have written assurance from the buyer that he has received the disclosure, the broker must advise the buyer in writing of his disclosure rights. The broker must maintain a record of the actions taken in an effort to comply with Cal. Civ. Code § 1102.12.

AGENT'S INSPECTION DISCLOSURE

The seller's disclosure form contains an "Agent's Inspection Disclosure," which must be completed if the seller is represented by an agent. The section requires the agent to note

any additional items to be disclosed based on a "reasonably competent and diligent visual inspection of the accessible areas of the property."

EARTHQUAKE ZONES

Generally, a person acting as an agent for a transferor of real property that is located within a delineated earthquake fault zone (or the transferor, if acting without an agent) must disclose to a prospective transferee the fact that the property is located within a delineated earthquake fault zone. This disclosure is required only if:

- the transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone; or

- a map that includes the property has been provided to the city or county pursuant to Cal. Pub. Res. Code § 2622 and a notice has been posted at the county recorder, county assessor, and county planning agency offices that identifies the map's location and any information regarding changes to the map received by the county.

If the transaction is subject to Cal. Civ. Code § 1103, this disclosure must be provided by either:

- the Local Option Real Estate Transfer Disclosure Statement as provided in Cal. Civ. Code § 1102.6a; or

- the Natural Hazard Disclosure Statement as provided in Cal. Civ. Code § 1103.2.

If "the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a delineated earthquake fault hazard zone," the agent must mark "Yes" on the Natural Hazard Disclosure Statement. The agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to Cal. Civ. Code § 1103.4(c) that verifies that the property is not in the hazard zone.

AGENT LIABILITY

Neither the seller nor the seller's agent or buyer's agent is liable for "any error, inaccuracy, or omission of any information delivered" pursuant to article 1.7 if:

- the error, inaccuracy, or omission was not within his or her personal knowledge and was based on information timely provided by public agencies or other persons providing specified information; and
- "ordinary care was exercised in obtaining and transmitting the information."

Section 1102.12 amended 1986; § 2621.9 amended 1999; § 1103.12 enacted 1999; § 1102.6 amended 2019; § 1103.4 amended 2018.

[Cal. Civ. Code §§ 1102.6, .12; 1103.4, .12; Pub. Res. Code § 2621.9 \(2019\)](#)

California, Flood-related Disclosures

If a transfer is of residential property located within a special flood hazard area (any type Zone "A" or "V") designated by F.E.M.A., the seller or his or her agent must disclose that fact to a prospective buyer if either:

- the seller or the seller's agent actually knows that the property is within a special flood hazard area; or

- the local jurisdiction has compiled a list of parcels that are within the special flood hazard area, and a notice identifying the location of the parcel list has been posted at certain county offices.

If a transfer is of real property located within an area of potential flooding shown on an inundation map prepared pursuant to Cal. Water Code § 6161, the seller or his or her agent must disclose that fact if either:

- the seller or his or her agent has actual knowledge that the property is within an "inundation area"; or
- the local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area, and a notice identifying the location of the parcel list has been posted at specified county offices.

The required form specifies that the seller and the seller's agent must disclose:

- whether the property lies within a special flood hazard area (any type Zone "A" or "V"), as designated by F.E.M.A.; and
- whether the property is within an area of "potential flooding shown on a dam failure inundation map."

The Natural Hazard Disclosure Statement form is set forth in Cal. Civ. Code § 1103.2. If FEMA has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. A copy of the Letter of Map Revision must be attached to the disclosure statement. If FEMA has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to Cal, Gov't Code § 8589.3(g), then the seller or seller's agent shall mark "Yes" on the Natural Hazard

Disclosure Statement, even if the map has not yet been updated and attach a copy of the Letter of Map Revision to the disclosure statement.

Section 1102.6 amended 2019; § 1103.2 amended 2019; §§ 1103.4 and 1103 amended 2018.

[Cal. Civ. Code §§ 1102.6](#) (form is displayed in [2014 Cal. Stat. ch. 71, at 18-22](#)); [1103, 1103.2, .4 \(2019\)](#)

California, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Article 1.7, which requires a Natural Hazard Disclosure Statement, applies to certain property that is located within:

- a special flood hazard area;
- an area of potential flooding;
- a very high fire hazard severity zone;
- an earthquake fault zone;
- a seismic hazard zone; or
- wildland areas that may maintain substantial forest fire risks.

See § 1103.1 for sales that are not subject to article 1.7.

Article 1.5 generally applies to the transfer of single-family residential property by:

- sale;
- exchange;
- real property sales contract;
- lease with purchase option;
- any other purchase option; or
- ground lease with improvements.

See § 1102.2 for transfers that are not subject to article 1.5.

PSYCHOLOGICALLY IMPACTED PROPERTY

Generally, a real property owner, the owner's agent, or the buyer's agent is not required to disclose either of the following because they are not material facts that require disclosure:

- an occupant's death on the real property or the manner of death if the death has occurred more than three years before the offer date; or
- that an occupant was living with HIV or died from AIDS-related complications.

However, no cause of action arises against an owner, the owner's agent, or the buyer's agent for not disclosing those facts.

RELIANCE ON THIRD-PARTY REPORTS

The delivery of the following is deemed to comply with article 1.5 and relieves the seller or any listing or buyer's agent of further duty under the article regarding that information:

- information by a public agency or other person; or
- a report or opinion prepared by "a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, a C-39 roofing contractor conducting a roof inspection pursuant to [Cal. Bus. & Prof. Code § 7197(d)], or other expert," dealing with matters within the scope of his expertise, provided the information is provided to the prospective buyer pursuant to a written or oral request.

The Natural Hazard Disclosure Statement provides an optional acknowledgment that:

- representations made in the statement are based on an independent third party report provided as a substituted disclosure; and

- neither the seller nor his or her agent have verified the information in the report or are not personally aware of any errors or inaccuracies.

Section 1710.2 amended 2016; §§ 1102, 1102.2, 1103.1, and 1103.2 amended 2019; 1102.4, and 1103.4 amended 2018.

[Cal. Civ. Code §§ 1102; 1102.2, .4; 1103; 1103.1, .2, .4; 1710.2 \(2018\)](#)

California, Seller's Disclosure Form

Subject to the exemptions contained in § 1102.2, the real estate transfer disclosures required by article 1.5 must be made on a copy of the Real Estate Transfer Disclosure Statement set forth in § 1102.6. The natural hazard disclosures must be made on a copy of the Natural Hazard Disclosure Statement set forth in § 1103.2. However, the seller and his agent may provide the disclosure required by article 1.7 in the Local Option Real Estate Disclosure Statement described in § 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and warnings as required by § 1103.2.

Section 1102.6 amended 2019; §§ 1102.2 and 1103.2 amended 2019; § 1102.6a amended 2018.

[Cal. Civ. Code §§ 1102.6](#) (form is displayed in [2014 Cal. Stat. ch. 71, at 18-22](#)), [.6a; 1103.2\(a\), \(e\) \(2019\)](#); *see also* [Cal. Civ. Code § 1102.2 \(2019\)](#)

California, Unusual Disclosure Requirements

RADON

The mandatory Real Estate Transfer Disclosure Statement requires the seller to disclose any substances that may be an environmental hazard, including radon gas.

LEAD-BASED PAINT

The mandatory Real Estate Transfer Disclosure Statement requires the seller to disclose any materials or products that may be an environmental hazard, including lead-based paint.

LOCAL AIRPORTS

If requested, an expert must determine whether the property is within an airport influence area, as defined in § 11010(b) of the Business and Professions Code. If the property is within an airport influence area, the report must contain the Notice of Airport in Vicinity statement set forth in § 1103.4(c)(1). Also, the Real Estate Transfer Disclosure Statement requires the seller to disclose any neighborhood noise problems or other nuisances, which may be interpreted as including airports.

If a city or county adopts a different or additional disclosure form as provided by § 1103.6a regarding the proximity or effects of a local airport, the statement in that form must contain at least that information contained in the statement "Notice of Airport in Vicinity" set forth in § 11010 of the Business and Professions Code, "or Section 1103.4 [of the Civil Code] or 4255." If a city or county does not adopt a different or additional disclosure form, the "airport influence area" disclosures or, if there is no current airport influence map, a written disclosure of an airport within two miles of the property, satisfies any city or county requirements for airport disclosure.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Article 1.7, which requires the Natural Hazard Disclosure Statement, applies to certain property that is located within an earthquake zone or a seismic hazard zone. The Natural Hazard Disclosure Statement requires an owner to disclose whether the property is located in:

- an earthquake fault zone pursuant to § 2622 of the Public Resources Code;
- a seismic hazard zone pursuant to § 2696 of the Public Resources Code;
- a landslide zone; or
- a "liquefaction zone."

Generally, a seller of real property that is located within a delineated earthquake fault zone who is acting without an agent or a seller's agent must disclose to any prospective buyer the fact that the property is located within a delineated earthquake fault zone. This disclosure is required only if:

- the seller, or the seller's agent, has actual knowledge that the property is within a delineated earthquake fault zone; or
- a map that includes the property has been provided to the city or county pursuant to Cal. Pub. Res. Code § 2622 and a notice has been posted at the county recorder, county assessor, and county planning agency offices that identifies the map's location and any information regarding changes to the map received by the county.

If the transaction is subject to Cal. Civ. Code § 1103, this disclosure must be provided by either:

- the Local Option Real Estate Transfer Disclosure Statement as provided in Cal. Civ. Code § 1102.6a; or

- the Natural Hazard Disclosure Statement as provided in Cal. Civ. Code § 1103.2.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

Until a property owner subject to Cal. Health & Safety Code § 25400.25 (regarding methamphetamine contaminated property) receives a notice from a local health officer that the property requires no further remediation action, the property owner must notify a prospective buyer in writing of the pending order and provide him or her with a copy of the pending order unless otherwise required by Cal. Civ. Code §§ 1102.3 or 1102.3a.

OTHER UNUSUAL REQUIREMENTS

Ordnance locations

Any residential property seller with actual knowledge of any former federal or state ordnance locations within the neighborhood must give written notice of that knowledge as soon as practicable. "Former federal or state ordnance locations" means "an area identified by an agency or instrumentality of the federal or state government as an area once used for military training purposes which may contain potentially explosive munitions," and "neighborhood area" means within one mile of the property.

Miscellaneous disclosures

The Real Estate Transfer Disclosure Statement requires a seller to disclose:

- substances that may be an environmental hazard, including asbestos, formaldehyde, fuel or chemical storage tanks, and contaminated soil or water on the property;

- features shared with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the property;
- any settling, slippage, sliding, or other soil problems;
- any fill on any portion of the property;
- major damage to the property from fire, earthquake, floods, or landslides;
- neighborhood noise problems or other nuisances;
- the existence of any window security bars and related safety release mechanisms; and
- the existence of carbon monoxide devices.

The seller must also certify that the property, at the close of escrow, will comply with the state's requirements for smoke detectors and water heaters.

Industrial uses

As soon as practicable before transfer of title, a residential real property seller with actual knowledge must give written notice that the property is:

- adjacent to an industrial use;
- zoned to allow an industrial use; or
- affected by a nuisance created by an industrial use.

Property taxes

A seller of real property subject to article 1.5 of chapter 2, or his or her agent, must deliver to the prospective buyer a disclosure notice that includes the following notice, in at least 12-point type or a contrasting color:

California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes.

The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the tax collector. If you have any question concerning this matter, please call your local tax collector's office.

The notice must have the following title, in at least 14-point type or a contrasting color: "Notice of Your 'Supplemental' Property Tax Bill."

Transfer fees

For property transferred on or after January 1, 2008, a seller must disclose whether the property is subject to a transfer fee, which generally includes "any fee payment requirement imposed within a covenant, restriction, or condition contained in any deed, contract, security instrument, or other

document affecting the transfer or sale of, or any interest in, real property that requires a fee be paid upon transfer of the real property." The seller must provide, at the same time as he or she must provide the transfer disclosure statement, an additional disclosure statement containing the following:

- notice that payment of a transfer fee is required upon transfer of the property;
- the fee amount required (for the property's asking price);
- a description of how the fee is calculated;
- notice that the fee's final amount may be different if the fee is based on a percentage of the final sale price;
- the entity to which the funds will be paid;
- the purposes for which the funds will be used; and
- the date or circumstances under which the transfer fee obligation expires, if any.

Right to farm

If requested, an expert must determine whether the property is located within one mile of a parcel designated as "'Prime Farmland,' 'Farmland of Statewide Importance,' 'Unique Farmland,' 'Farmland of Local Importance,' or 'Grazing Land' on the most current 'Important Farmland Map' issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program website." If the residential property is within one mile of a designated farmland area, the report must contain the Notice of Right to Farm statement set forth in § 1103.4(c)(3).

Commercial energy disclosures

A nonresidential building owner or operator must disclose to a prospective buyer, lessee, or lender the Energy Star Portfolio Manager benchmarking data and ratings for the most recent 12-month period. After these benchmarking data and ratings are disclosed, the property owner, operator, or his or her agent, are not required to provide additional information regarding the benchmarking data and ratings. This requirement does not increase or decrease a property owner's or operator's (or their agent's) duties or alter a seller's, agent's, or broker's duty to disclose a material fact affecting the real property.

Existing subdivision interest

A subdivider/seller must provide an "Existing Subdivision Interest Disclosure Statement" to each buyer as soon as practicable before the transfer of title. An "existing subdivision interest" is a subdivision interest in which the "dwelling comprising the subdivision interest has been completed . . . or occupied . . . , whichever occurs first, three (3) years or more before the date that the public report application is filed with the Department." The form is available at Cal. Code Regs. tit. 10, §2790.9.

Water use efficiency improvements

Effective January 1, 2017, the seller of a single-family residential property seller must disclose in writing:

- specified requirements for replacing plumbing fixtures; and

- whether the real property includes noncompliant plumbing.

Effective January 1, 2019, a seller of multifamily residential real property or commercial real property must disclose to the prospective buyer or transferee, in writing:

- specified requirements for replacing plumbing fixtures; and
- whether the property includes any noncompliant plumbing fixtures.

This disclosure may be included in other transactional documents.

Effective January 1, 2017, the seller of residential real property must also disclose, in writing:

- that Cal. Civ. Code § 1101.4 requires that California single-family residences be equipped with water-conserving plumbing fixtures on or before January 1, 2017; and
- whether the property includes any noncompliant plumbing fixtures.

Legislation passed into law in 2011 revised the form described above to require that a seller must disclose whether the property is equipped with water-conserving plumbing fixtures.

Contractual assessments

A seller transferring real property subject to a contractual assessment (such as a special tax, an assessment installment, or a contractual assessment as provided by § 5898.24 of the Streets and Highways Code) must make specified disclosures.

Common interest development

The owner of a separate interest in a common interest development must provide a form for specified billing disclosures to a prospective buyer. Generally, the owner of a separate interest must, as soon as practicable before transfer of title or execution of a real property sales contract, provide to the prospective buyer, among other things, a copy of the preliminary list of defects provided to each association member, unless the association and the builder:

- subsequently enter into a settlement agreement or otherwise resolved the matter; and
- the association complies with § 1375.1 (§ 6100, effective January 1, 2014).

The preliminary list of defects must include a statement that "a final determination as to whether the list of defects is accurate and complete has not been made."

Charging stations

If an electric vehicle charging station is to be placed in a common area or an exclusive use common area, the owner and each successive owner of the charging station must disclose to prospective buyers:

- the existence of the owner's charging station; and

- the owner's related responsibilities.

Effective January 1, 2019, the owner and each successive owner of an EV-dedicated TOU meter placed in a common area or an exclusive use common area of a common interest development must disclose to prospective buyers the meter's existence and information regarding the owner's related responsibilities.

Mining operations

In response to a request, an expert must determine whether property is located within one mile of a mine operation. If the expert determines that the residential property is located within one mile of a mine operation, the report must contain a Notice of Mining Operations in the form set forth in § 1103.4(c)(4).

Natural hazards

A contract for the sale of residential real property entered into on or after July 1, 2013, must contain a specified notice pertaining to gas and hazardous liquid transmission pipelines. However, although earlier versions of the bill required disclosures, the bill, as passed, only requires a notice informing the buyer of how he or she can obtain information regarding the pipelines' locations.

Fire hazards

On or after January 1, 2021, in addition to any other disclosure required, the seller of any real property that is located in a high or very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection must provide a disclosure notice to the buyer, if the home was constructed before January 1, 2010, that includes the following information:

- a statement as follows: "This home is located in a high or very high fire hazard severity zone and this home was built before the implementation of the Wildfire Urban Interface building codes which help to fire harden a home. To better protect your home from wildfire, you might need to consider improvements. Information on

fire hardening, including current building standards and information on minimum annual vegetation management standards to protect homes from wildfires, can be obtained on the internet website [http://www.readyforwildfire.org.](http://www.readyforwildfire.org;);"

- on or after July 1, 2025, a list of low-cost retrofits developed and listed pursuant to Cal, Gov't Code § 51189 which notice shall disclose which listed retrofits, if any, have been completed during the time that the seller has owned the property; and
- a list of the following features that may make the home vulnerable to wildfire and flying embers and a disclosure of which of the listed features, if any, that exist on the home of which the seller is aware: (i) eave, soffit, and roof ventilation where the vents have openings in excess of one-eighth of an inch or are not flame and ember resistant; (ii) roof coverings made of untreated wood shingles or shakes; (iii) combustible landscaping or other materials within five feet of the home and under the footprint of any attached deck; (iv) single pane or nontempered glass windows; (v) loose or missing bird stopping or roof flashing; and (vi) rain gutters without metal or noncombustible gutter covers.

Additionally, on and after July 1, 2021, a seller of a real property that is located in a high or very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection must provide to the buyer documentation stating that the property is in compliance with Section 4291 of the Cal. Pub. Res. Code § 4291 or local vegetation management ordinances, as follows:

- in a local jurisdiction that has enacted an ordinance requiring an owner of real property to obtain documentation that the property is in compliance with § 4291 or a local vegetation management ordinance, the seller shall provide the buyer with a copy of the documentation that complies with the requirements of that local ordinance and information on the local agency from which a copy of that documentation may be obtained; or
- in a local jurisdiction that has not enacted an ordinance for an owner of real property to obtain documentation that a property is in compliance with § 4291 or a local vegetation management ordinance, and if a state or local agency, or other government entity, or other qualified nonprofit entity, provides an inspection with documentation for the jurisdiction in which the property is located, the seller shall provide the buyer with the documentation obtained in the six-month period preceding the date the seller enters into a transaction to sell that real property and provide information on the local agency from which a copy of that documentation may be obtained; and

If the seller of a real property has not obtained such documentation of compliance, the seller and the buyer must enter into a written agreement pursuant to which the buyer agrees to obtain documentation of compliance with § 4291 or a local vegetation management ordinance as follows:

- in a local jurisdiction that has enacted an ordinance requiring an owner or buyer to obtain documentation of compliance with § 4291 or a local vegetation management ordinance, the buyer shall comply with that ordinance; or
- "[i]n a local jurisdiction that has not enacted an ordinance requiring an owner or buyer to obtain documentation of compliance, and if a state or local agency, or other government entity, or other qualified nonprofit entity, provides an inspection with documentation for the jurisdiction in which the property is located, the buyer shall obtain documentation of compliance within one year of the date of the close of escrow."

Section 2621.9 amended 1999; §§ 1102.16 and 1102.17 amended 2004; § 1102.15 enacted 1989; § 25400.28 amended 2019; § 1102.6e amended 2015; § 1101.4 enacted 2009; §§ 1353.9 and 1368 amended 2012 and repealed effective January 1, 2014, with contents recodified as §§ 4745 and 4525, respectively; §§ 1101.5 and 1098 amended 2013; § 1102.6 amended 2019; §§ 1102.6a, 1102.6b, 1102.6c, 1102.155, 1103, 1103.2, 1103.4, 4745, 2079.10.5 amended 2018; § 25402.10 amended 2019; § 4745.1 enacted 2018; §§ 1102.6f and 1102.19 enacted 2019; regulation 2790.8 amended 2014; r. 2790.9 adopted 2008.

[Cal. Civ. Code §§ 1098; 1101.4, .5; 1102.6](#) (form is displayed in [2014 Cal. Stat. ch. 71, at 18-22](#)), [.6a, .6b, .6c, .6e, .6f, .15, .16, .17, .19, .155; 1103; 1103.2, .4; 2079.10.5, 4525, 4745, 4745.1; Cal. Health & Safety Code § 25400.28; Cal. Pub. Res. Code §§ 25402.10\(d\), 2621.9 \(2019\); Cal. Code Regs. tit. 10, §§ 2790.8, .9 \(2019\)](#)

Colorado

Colorado, Agent's Obligations Regarding Seller's Required Disclosures

In 2006, Colorado amended its regulations regarding an agent's obligations related to a seller's required disclosures. Section F-13, which previously explicitly did not require the use of a disclosure form in a real estate transaction or prevent the seller from selling property "as is," no longer exists.

Colorado regulations now require a broker to "use Commission-Approved Form when such a form exists and is appropriate for the transaction." The list of required forms includes the following:

- *Lead-Based Paint Disclosures (Sales) and Lead-Based Paint Disclosures (Rentals);*
- *Seller's Property Disclosure (Land), Seller's Property Disclosure (Commercial), and Seller's Property Disclosure (Residential);*
- *Square Footage Disclosure.* (Note that whenever a listing broker disseminates square footage information, he or she must accurately disclose the square footage of living floor area, the information's source, and the date the broker obtained the information. See R. 725-1, § 6.11 for additional details regarding a licensee's obligations regarding square footage disclosures.); and
- *Green Disclosure*

The Commission-approved forms are available on the Commission's [Disclosure Documents](#) website.

The oil and gas activity disclosure requirements that are effective on and after January 1, 2016, explicitly do not create a duty to investigate or disclose that does not otherwise exist for a seller or real estate licensee.

Statutory section amended 2019; regulations renumbered 2019.

Colo. Rev. Stat. § 38-35.7-108 (LexisNexis 2019); [4 Colo. Code Regs. 725-1, §§ 6.11, 7.1 \(2020\)](#)

Colorado, Flood-related Disclosures

Colorado's seller's residential property disclosure form requires the following flood-related disclosures:

- any problems ever existing with damage to the property due to flood;
- whether there are or have been any flooding or drainage problems; and
- whether the property is or ever was located in a "governmentally designated flood plain or wetland area."

Form dated 2017; mandatory January 1, 2018.

[Colo. Div. of Real Estate, Seller's Property Disclosure \(Residential\) \(June 2017\)](#)

Colorado, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The following facts or suspicions that could psychologically impact or stigmatize property are not material facts subject to any disclosure requirement:

- that an occupant is or was at any time suspected to be infected with HIV or diagnosed with AIDS or any other disease that is highly unlikely to be transmitted through the occupancy of a dwelling; or
- that the property was the site of a homicide, other felony, or suicide.

Section enacted 1991.

Colo. Rev. Stat. Ann. § 38-35.5-101 (LexisNexis 2019)

Colorado, Seller's Disclosure Form

The revised disclosure form identified as "SPD19-6-17" became mandatory "1-18." The revised *Seller's Property Disclosure (Residential)* and the *Lead-Based Paint Disclosure (Sales)* forms are available on the Commission's [Disclosure Documents](#) website. (Note that as of June 2009, the Commission no longer posts forms in the Code of Colorado Regulations. Commission-approved forms are now posted on the Division of Real Estate's website.)

A broker must use a Commission-Approved Form when such a form exists and is appropriate for the transaction.

Regulation renumbered 2019; residential form dated 2017 (mandatory Jan. 1, 2018); lead-based paint form revised 2012.

[4 Colo. Code Regs. 725-1, § 7.1 \(2020\)](#); [Colo. Real Estate Comm'n, Seller's Property Disclosure \(Residential\) \(June 2017\)](#); [Colo. Real Estate Comm'n, Lead-Based Paint Disclosure \(Sales\) \(Sept. 2012\)](#)

Colorado, Unusual Disclosure Requirements

RADON

The disclosure form requires a seller to disclose any radon on the property.

LEAD-BASED PAINT

Real estate brokers must "use a Commission-Approved Form when such a form exists and is appropriate for the transaction." One of the listed forms is a "Lead-Based Paint Disclosure" form, which is available on the Commission's [Disclosure Documents](#) website.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. However, the disclosure form must require a seller to disclose "the existence of any proposed or existing transportation project that affects or is expected to affect the real property."

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision explicitly requiring a seller to disclose the existence of "local earthquake zones." However, the disclosure form requires a seller to disclose:

- any "sliding, settling, upheaval, movement or instability of earth, or expansive soils"; and
- whether the property is within a "governmentally designated geological hazard or sensitive area."

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A seller must disclose in writing to a buyer whether the seller "knows that the property was previously used as a methamphetamine laboratory." A seller who fails to make the required

disclosure at or before the time of sale and who knew of methamphetamine production on the property is liable to the buyer for:

- costs related to remediation;
- costs related to health injuries occurring to the property's residents that were caused by methamphetamine production on the property; and
- reasonable attorney fees incurred collecting costs from the seller.

If a seller becomes aware that the property was an illegal drug laboratory, but he or she remediates the property and receives the appropriate certificate of compliance, then:

- the seller is not required to disclose that the property was used as a methamphetamine laboratory; and
- the property "is no longer eligible for inclusion in any government-sponsored informational service" listing such properties.

For purposes of this disclosure requirement, "residential real property" includes, among others, a manufactured or mobile home, a condominium or townhome, rental property, and short-term residences, such as a motel or hotel.

OTHER UNUSUAL REQUIREMENTS

Taxing districts

Every sale contract for residential real property shall contain the following clearly legible disclosure statement in substantially the following form:

SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

Disclosures required by form

The disclosure form requires a seller to disclose:

- when a fireplace/wood stove, chimney/flue was last cleaned;

- environmental conditions, including hazardous materials, such as methane gas, radioactive materials, toxic materials, biohazardous materials, pesticides, herbicides, methane and asbestos, among others;

- underground and aboveground storage tanks;

- underground transmission lines;
- pets;
- dead or diseased trees or shrubs;
- designated noxious weeds;
- proximity to a dump;
- mine shafts, tunnels or abandoned wells;
- damage due to hail, wind, fire or flood; and
- exterior artificial stucco.

Common interest community disclosures

Every contract for the purchase and sale of residential real property in a common interest community must contain the following disclosure statement in bold-faced type:

THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

This requirement does not apply to the sale of a time-share unit.

The seller's disclosure form requires a seller to disclose whether the association has made a demand or brought a lawsuit against a builder or contractor alleging defective construction of improvements on the common area or property that is owned or controlled by the association, but is outside the seller's property or unit.

Potable water source

The Commission must require each listing contract, contract of sale, or seller's property disclosure for residential real property that is subject to the commission's jurisdiction to disclose the source of potable water for the property. The disclosure must include the source of potable water and must note the following: "SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES."

Each listing contract, contract of sale, or seller's property disclosure for residential real property that is not subject to the real estate commission's jurisdiction must contain a similar disclosure that is in substantially the same form.

If the disclosure statement indicates that the source of potable water is a well, the seller must also provide a copy of any current well permit.

Transportation projects

The disclosure form must require a seller to disclose "the existence of any proposed or existing transportation project that affects or is expected to affect the real property."

Solar energy in new construction

For contracts entered into on or after August 10, 2009, to purchase a new, single-family detached residence built on or after August 10, 2009 (except unoccupied sales inventory or a model home), Colorado disclosure laws require the contractor to offer the buyer the opportunity to have the residence include specified items related to solar energy. The contractor must also offer additional information set forth in § 38-35.7-106.

Water-smart homes option in new construction

Every person that builds a new single-family detached residence under contract for a buyer must disclose to the buyer the option to select one or more of the water-smart home options listed in Colo. Rev. Stat. § 38-35.7-107.

Disclosure of oil and gas activity

By January 1, 2016, each sale contract or seller's property disclosure statement for residential real property must disclose the following:

THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE.

THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

Statutory section 38-35.7-101 amended 2009; § 38-35.7-104 amended 2019; § 38-35.7-105 amended 2019; § 38-35.7-102 amended 2012; § 38-35.7-103 amended 2013; § 38-35.7-107 amended 2014; § 38-35.7-108 amended 2019; § 38-35.7-106 amended 2018; regulation amended 2019; form dated 2017.

Colo. Rev. Stat. Ann. §§ 38-35.7-101, -102, -103, -104, -105, -106, -107, -108 (LexisNexis 2019); [4 Colo. Code Regs. 725-1, § 7.1 \(2020\)](#); [Colo. Div. of Real Estate, Seller's Property Disclosure \(Residential\) \(June 2017\)](#)

Connecticut, Agent's Obligations Regarding Seller's Required Disclosures

No generally relevant provisions were located.

However, in connection with a sale contract for a one- to four-family residential property, if the seller provides written notice to the purchaser before or upon entering into the contract that "a list of local properties upon which hunting or shooting sports regularly take place may be available at the office of the town clerk," the seller and the real estate licensee are "deemed to have fully satisfied any duty to disclose the presence of local properties upon which hunting or shooting sports regularly take place," even if:

- the list is not available at the town clerk's office; or
- the list contains an error, omission or inaccuracy.

This provision does not impose liability on the seller or the licensee for failing to disclose properties upon which hunting or shooting sports regularly take place. Neither the seller nor the licensee must compile a list of properties upon which hunting or shooting sports regularly take place.

Similarly, the state's provision requiring notice regarding the existence of hazardous waste facilities does not impose liability on the seller or licensee for failing to disclose the existence of hazardous waste facilities. Also, neither the seller nor the licensee must compile a list of those facilities.

No cause of action arises against a real estate owner or his or her agent for the failure to disclose a nonmaterial fact concerning real property.

Section 20-329dd amended 2004; § 20-327g enacted 2007; § 20-327f amended 2008.

[Conn. Gen. Stat. §§ 20-327g, -327f, -329dd \(2019\)](#)

Connecticut, Flood-related Disclosures

The state's residential property disclosure form requires a seller to disclose whether the property is located in a flood hazard area or an inland wetlands area.

Form amended August 2019.

[Conn. Dep't of Consumer Protection, *Residential Property Condition Disclosure Report* \(Aug. 2019\)](#)

Connecticut, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The statutory disclosure requirements generally apply to the transfer of any residential property in Connecticut consisting of one to four dwellings, including condominiums, by:

- sale;

- exchange; or

- lease with purchase option.

Certain exemptions are listed in Conn. Gen. Stat. § 20-327b(b).

PSYCHOLOGICALLY IMPACTED PROPERTY

A seller need not disclose a "nonmaterial fact concerning real property," and no cause of action arises against an owner or his or her agent for failing to disclose a nonmaterial fact. A "nonmaterial fact concerning real property" includes, but is not limited to:

- the fact that an occupant is or has been infected with a disease included on the "list of reportable diseases, emergency illnesses and health conditions" issued by the Commissioner of Public Health; or
- the fact that the property was at any time suspected to have been the site of a death or felony.

However, if a purchaser in the process of making an offer, advises an owner or his agent, in writing, that knowledge that the property was suspected to have been the site of a homicide, other felony or suicide is important to his decision whether to purchase, the owner through his agent must report any findings to the purchaser, subject to applicable privacy laws. If the owner refuses to disclose the information, his agent must so advise the purchaser in writing.

Section 20-329dd amended 2004; § 20-329ee amended 2002; § 20-329cc amended 2011; § 20-327b amended 2018.

[Conn. Gen. Stat. §§ 20-327b, -329cc, -329dd, -329ee \(2019\)](#)

Connecticut, Seller's Disclosure Form

Except as otherwise provided in § 20-327b, each person who sells residential real property in Connecticut must provide a written residential condition report to the prospective buyer on the form prescribed by regulation. The 2019 [Residential Property Condition Disclosure Report](#) is available online.

Statutory section amended 2018; form amended 2019.

[Conn. Gen. Stat. Ann. § 20-327b \(2019\); Conn. Dep't of Consumer Protection, *Residential Property Condition Disclosure Report* \(Aug. 2019\)](#)

Connecticut, Unusual Disclosure Requirements

RADON

The mandatory form requires a seller to disclose whether:

- a radon test has been done; and
- a radon control system is in place.

LEAD-BASED PAINT

The mandatory form requires a seller to disclose whether lead-based paint is present, and, if so, its location.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the seller must disclose whether he or she is aware of "any prior or pending litigation, government agency or administrative actions, orders or liens on the property related to the release of any hazardous substance."

Also, a seller of one- to four-family residential real property must disclose the availability of lists of hazardous waste facilities, in which case the seller and any licensee is deemed to have fully satisfied any duty to disclose the presence of all hazardous waste facilities.

With respect to a sale contract for a one- to four-family residential real property, if the seller provides written notice to the purchaser before or upon entering into the contract of the availability of information concerning environmental matters from the federal Environmental Protection Agency, the National Response Center, the Department of Defense and third-party providers, the seller and any real estate licensee are "deemed to have fully satisfied any duty to disclose environmental matters concerning properties other than the property that is the subject of the contract."

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The mandatory disclosure form requires the seller to disclose:

- whether the property is located in a historic village or special tax district;

- any fire or smoke damage;
- any asbestos; and
- lead plumbing.

If the residence is or will be served by well water, the written residential disclosure report must also contain "the results of any water test performed for volatile organic compounds."

The state's written residential disclosure report must include information concerning the following:

- municipal assessments, including, but not limited to, sewer or water charges;
- leased items on the premises, such as propane fuel tanks, water heaters, major appliances, and alarm systems; and
- whether the real property is located in "a municipally designated village district or municipally designated historic district or has been designated on the National Register of Historic Places" and, if applicable, a statement that the buyer may obtain information concerning those districts from the municipality's village or historic district commission.

The 2012 form also requires disclosure of the following:

- the presence, age (if known), location, and known problems of any underground fuel tank;
- whether there are any known problems with "the well or domestic water quality, quantity, recovery, and/or pressure";
- whether the property includes any leased items, including, among others, major appliances and solar devices; and
- whether the property is subject to any land use restrictions, other than those contained in the chain or title or that are necessary to comply with state laws or municipal zoning.

As of January 1, 2013, the form includes, among others:

- whether the property is subject to any dues or fees if it is located in a common interest community;
- whether there is or has ever been an underground storage tank located on the property, and, if so, information regarding its removal (if it has been removed);
-

whether the seller is aware of "any prior or pending litigation, government agency or administrative action, order or lien on the premises related to the release of any hazardous substance"; and

- information regarding smoke and carbon monoxide detectors.

Hunting

In connection with a contract for the sale of a one- to four-family residential real property, if the seller provides written notice to the purchaser before or upon entering into the contract that "a list of local properties upon which hunting or shooting sports regularly take place may be available at the office of the town clerk," the seller and any real estate licensee are deemed to have "fully satisfied any duty to disclose the presence of local properties upon which hunting or shooting sports regularly take place," even if:

- the list is not available at the town clerk's office; or
- the list contains an error, omission or inaccuracy.

Smoke and carbon monoxide detectors

Effective January 1, 2014, before transferring title to real property containing a residential building designed to be occupied by one or two families for which a building permit for new occupancy was issued before October 1, 2005, the property's transferor must present an affidavit certifying that:

- the building permit for new occupancy was issued on or after October 1, 1985, or the residential building is equipped with smoke detection and warning equipment complying with § 29-453; and

- the residential building is equipped with carbon monoxide detection and warning equipment complying with § 29-453 or does not pose a risk of carbon monoxide poisoning because the building "does not contain a fuel-burning appliance, fireplace or attached garage."

Private transfer fees

A contract offered or entered into for the sale of real property that is encumbered by a private transfer fee obligation must include:

- a provision disclosing the existence of the fee;
- a description of the obligation; and
- a statement that private transfer fee obligations are subject to the provisions of Conn. Gen. Stat. Ann. § 47-17a.

Discrimination and housing law disclosures

Every person who offers a residential property containing two or more units in the state for sale, exchange or for lease with option to buy must attach a photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of a disclosure form, available from the Internet website for the Commission on Human Rights and Opportunities, containing information on housing discrimination and federal and state fair housing laws, signed by the prospective purchaser, to any purchase agreement, option or lease containing a purchase option, at the time of closing.

Foundation

The disclosure form includes the following provisions related to the foundation:

- a question whether the seller has any knowledge related to the presence of pyrrhotite in a foundation on the property;
- a question regarding whether the seller has knowledge of any testing or inspection done by a licensed professional related to the foundation; and
- a question regarding whether the seller has knowledge of any repairs related to the foundation.

Effective October 1, 2019, a Residential Foundation Condition Report containing similar information must also be filled out for the transfer of residential property located in a town determined by the Capitol Region Council of Governments to be affected, or potentially affected, by crumbling foundations and that was acquired by: (1) a political subdivision of this state; (2) a judgment of strict foreclosure; (3) foreclosure by sale; or (4) a deed in lieu of foreclosure. The owner or political subdivision must make the disclosures in the form to the prospective purchaser of such property prior to the prospective purchaser's execution of any binder, contract to purchase, option, or lease containing a purchase option. This Report is included with the Residential Property Condition Report.

Section 20-327f amended 2008; § 20-327g enacted 2007; § 47-17a amended 2014; § 20-327b amended 2018; form amended 2019.

[Conn. Gen. Stat. §§ 20-327b, -327f, -327g; 47-17a \(2019\); Conn. Dep't of Consumer Protection, Residential Property Condition Disclosure Report \(Aug. 2019\)](#)

Delaware

Delaware, Agent's Obligations Regarding Seller's Required Disclosures

The Commission may discipline a licensee who misrepresents the availability or content of a seller's disclosure report or a radon disclosure report. Also, the agent, subagent, or seller must give a copy of the disclosure reports to each prospective buyer or his or her agent.

The seller's completed disclosure form is "not a warranty of any kind by the seller or any agents or subagents representing seller or buyer in the transfer."

(Note that statutory provisions that previously defined a licensee's duty to verify independently the accuracy or completeness of any statement made by a seller, landlord, or independent inspector, were not included in chapter 29 of title 24, as revised in 2011.)

Delaware's regulations require a licensee to obtain a condition report from a residential property seller before accepting a written listing agreement. The licensee must:

- make the report available to any buyer;
- provide the seller's most recent condition report to a buyer before the buyer enters into a sale agreement; and
- make the condition report a part of any sale agreement.

If property is exempt from the state's disclosure report requirements, the licensee must obtain a "certification in lieu of the Condition Report and Radon Disclosure" before accepting a written listing agreement. In that case, the licensee must:

- make the certification readily available to any prospective buyer;
- provide the certification to a buyer before the buyer enters into a sale agreement; and

- make the certification a part of any sale agreement.

Similarly, a licensee must obtain a radon disclosure form from a residential property seller before accepting a written listing agreement, unless the property qualifies for an exemption. The licensee must:

- make the disclosure readily available to any prospective buyer;
- provide the seller's most recent radon disclosure form and a copy of "Radon Rights, Risks and Remedy for the Home Buyer" to a buyer before the buyer enters into a sale agreement; and
- make the radon disclosure a part of any sale agreement.

After termination, a licensee and brokerage owe a customer or client the duty of confidentiality unless, among other things, disclosure of the information, such as "defects actually known by the Licensee or previously disclosed by the seller on the Seller's Disclosure of Real Property Condition Report or Radon Disclosure or any other statutorily required form, is required by law."

Sections 2912 and 2934 amended 2011; §§ 2573 and 2574 enacted 1993; § 2974 struck 2011; regulations adopted 2012.

[Del. Code tit. 24, §§ 2912\(a\)\(11\), 2934; tit. 6, §§ 2573, 2574 \(2019\); 2900-24 Del. Code Regs. §§ 9.7, 9.8 \(2019\)](#)

Delaware, Flood-related Disclosures

The standard seller disclosure form requires the following flood-related disclosures:

- whether any part of the property is located in a flood zone or a wetlands area;
- whether there are any drainage or flood problems affecting the property;
- whether the owner carries flood insurance and, if so, the agent and the cost of the insurance;
- whether the property has standing water in the yard for more than 48 hours after rain; and
- whether the property or any of its improvements have ever been damaged by flood.

[State of Del., Seller's Disclosure of Real Property Condition Report \(effective Oct. 1, 2017\)](#)

Delaware, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The disclosure requirements apply to property improved with one to four dwelling units by:

- sale;
- exchange;

- installment land sale contract;
- lease with a purchase option;
- ground lease of a manufactured housing lot; or
- vacant land zoned for residential use and marketed as appropriate for the construction of a dwelling for one to four families.

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact that property is or may be psychologically impacted is not a material fact that a seller must disclose. In this context, "psychological impact" means that:

- the property was, or was suspected to have been, the site of a homicide, suicide or other felony except arson; or
- an occupant is or was suspected to be infected or has been infected with HIV, AIDS, or any other disease that medical evidence shows to be highly unlikely to be transmitted through the occupancy of a dwelling place.

"The fact or suspicion that a property might be or is [p]sychologically [i]mpacted is not a material fact that must be disclosed in a real property transaction." If a customer or client specifically asks the owner or agent in writing about psychological impacts, the property's owner, landlord, or his or her licensee must answer the questions truthfully to the best of his or her knowledge. A licensee has no duty to inquire about the psychological impacts regarding a property, unless a customer or client makes a written request for the information.

An owner, landlord, or licensee may not "make any disclosure concerning the [p]sychological [i]mpacts of HIV, AIDS, or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupancy of a dwelling place even if a [c]ustomer or [c]lient specifically asks about such [p]sychological [i]mpacts."

Section 2576 amended 2016; §§ 2902 and 2927 amended and renumbered 2011.

[Del. Code tit. 6, § 2576; tit. 24, §§ 2902, 2927 \(2019\)](#)

Delaware, Seller's Disclosure Form

Unless excluded pursuant to Del. Code Ann. tit. 6, § 2577, a seller transferring residential real property must disclose all known material defects.

The following disclosure forms, as approved by the Delaware Real Estate Commission, are available online:

- [*Seller's Disclosure of Real Property Condition Report;*](#)
- [*Seller's Disclosure of Real Property Condition Report: New Construction Only;*](#) and
- [*Radon Disclosure*](#) and [*Seller's Disclosure of Real Property Condition Report and Radon Disclosure Exempt Property Certification.*](#)

Sections 2572 and 2577 enacted 1993; § 2578 amended 2015; radon form dated 2007; radon exempt property form dated 2017; property disclosure forms effective 2017.

[Del. Code tit. 6, § 2572 \(2018\); see also Del. Code tit. 6, §§ 2577, 2578 \(2018\); Del. Real Estate Comm'n, *Seller's Disclosure of Real Property Condition Report \(Oct. 1, 2017\)*, *Seller's Disclosure of Real Property Condition Report, New Construction Only \(Oct. 1, 2017\)*; *Radon*](#)

[Disclosure \(Sept. 12, 2007\); Seller's Disclosure of Real Property Condition Report and Radon Disclosure Exempt Property Certification \(Oct. 1, 2017\)](#)

Delaware, Unusual Disclosure Requirements

RADON

Delaware's [Radon Disclosure](#) form, as approved by the Delaware Real Estate Commission on September 12, 2007, is available online.

The form requires the seller of residential real property to:

- provide the buyer with information about any known radon;

- disclose any radon tests or inspections; and

- notify the buyer of the potential hazards of radon exposure.

LEAD-BASED PAINT

The standard form requires the seller to disclose whether the property contains any lead hazards, including lead paint, lead pipes, or lead in the soil.

LOCAL AIRPORTS

Research located no provision specifically requiring a seller to disclose the location of local airports. However, the standard form requires the seller to disclose "anything else" that may "materially and adversely affect the property," including noise, bright lights, or other nuisances, which could be interpreted to include local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the standard form requires the seller to disclose whether any "sliding, settling, earth movement, upheaval, earth stability, or methane gas release problems" have occurred on the property or in the immediate neighborhood.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions are located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The standard form requires seller to disclose:

- any fill on the property;
- any pets in the house;

- whether there is or has been a swimming pool, hot tub, spa or whirlpool on the property;
- information regarding the cost of repairing and paving the streets adjacent to the property;
- whether off-street parking is available;
- any underground storage tanks on the property;
- any asbestos;
- any part of the property located in a wetlands area;
- any "tax ditches" crossing or bordering the property;
- whether the property has been damaged by fire, smoke, wind, or flood;
- whether the structure was moved to the site;
- whether fire retardant plywood was used in the construction;

- whether the seller is in violation of any deed restrictions;
- whether the property is subject to "any agreements concerning affordable housing or workforce housing";
- whether there are any unpaid assessments;
- whether the amount owed on mortgages and other liens exceeds the property's estimated value, and, if so, whether additional funds are available for settlement;
- whether a title policy been issued on the property in the past five years;
- whether any abandoned tank was properly abandoned with all necessary permits;
- whether the property has ever been tested for mold, and any test results; and
- whether a "wastewater spray irrigation system" is "installed on or adjacent to the property."

Although the form, as revised in 2008, no longer requires disclosure of the presence of urea-formaldehyde foam insulation, the seller must indicate the type of any insulation.

The 2011 disclosure form included new disclosures regarding:

- whether mold is currently present on the property;
- drywall issues or smells;
- the number of heating or air-conditioning zones;
- insurance claims on the property during the past five years; and
- the name of the property's management company.

Common Interest Ownership Act

The form, as amended in 2011, also requires a seller of new construction to warrant whether the property is exempt from providing the buyer with a public offering statement as required under the Delaware Uniform Common Interest Ownership Act. If it is not exempt, the seller must attach "a copy of all documents in the chain of title that create any financial obligation for the buyer, and a written summary of all financial obligations created by documents in the chain of title."

Automatic fire sprinkler systems

At the time of or before agreeing to final pricing for construction of a *new dwelling* with a buyer, a builder must provide a buyer with:

- a copy of written materials prepared by the Office of the State Fire Marshal that details the benefits of an automatic fire sprinkler system; and
- written materials including the costs associated with the installation and maintenance of an automatic fire sprinkler system.

The buyer must acknowledge receipt of the written materials in writing. The form must also direct the buyer to visit the state fire marshall's website for further information.

Section 2572 enacted 1993; §§ 2572A and 2578 amended 2006; § 2578 amended 2015; § 3682 enacted 2015; radon disclosure form approved 2007; seller's disclosure form revised effective 2017.

[Del. Code tit. 6, §§ 2572, 2572A, 2578, 3682 \(2019\)](#); [Del. Real Estate Comm'n, Radon Disclosure \(Sept. 12, 2007\)](#); [State of Del., Seller's Disclosure of Real Property Condition Report \(effective Oct. 1, 2017\)](#)

District of Columbia

District Of Columbia, Agent's Obligations Regarding Seller's Required Disclosures

If the seller provides the required residential real property disclosure statement, the seller's agent is deemed to have complied with the licensee's obligations under § 42-1703 to disclose material adverse facts concerning the property's physical condition. Also, the duty to comply with chapter 42 is imposed on the seller, not his agent or broker, and a seller's agent or broker is not liable for:

- any error, inaccuracy or omission in any disclosed information;
- the seller's failure to deliver the disclosure statement to the prospective buyer; or
- the seller's violation of chapter 42,

unless the agent or broker knowingly acted "in concert" with the seller to commit fraud.

Sections enacted 1999.

[D.C. Code §§ 42-1307, -1311 \(2020\)](#)

District Of Columbia, Flood-related Disclosures

The mandatory disclosure form requires a seller to disclose whether he or she has "actual knowledge" of whether the property was previously damaged by flooding.

Regulation 2708.13 amended 2007, amended 1999 amended 2020.

[D.C. Mun. Regs. tit. 17, § 2708.13 \(2020\)](#)

District Of Columbia, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 42 applies only to the transfer of real estate located in the District of Columbia consisting of one to four residential dwelling units, whether by:

- sale;

- exchange;

- installment land contract;

- lease with purchase option; or
- other purchase option.

Chapter 42 applies only where the purchaser expresses in writing his intent to reside in the property.

PSYCHOLOGICALLY IMPACTED PROPERTY

It is not be a material fact that must be disclosed in a real estate transaction, nor may it be the basis for a cause of action against an owner, a real estate broker, or a real estate salesperson, that the following information was not disclosed to a purchaser:

- an occupant of real property was infected with HIV or diagnosed with AIDS or any other disease that has been determined to be highly unlikely to be transmitted through occupying the property alone; or
- the property was the site of a suicide, homicide, or other felony.

RELIANCE ON THIRD-PARTY REPORTS

The delivery to a prospective buyer of any required information by the following is considered compliance with the disclosure requirement:

- a public agency;

- a "licensed professional engineer, professional surveyor, home inspector, geologist, structural pestcontrol operator, contractor, or other expert," dealing within the scope of his license or expertise,

unless the seller knows and fails to disclose a defect or condition that contradicts the information contained in the report.

Sections 42-1303 and 47-2853.198 enacted 1999; § 42-1301 amended 2008.

[D.C. Code §§ 42-1301\(a\); -1303\(b\), \(c\); 47-2853.198 \(2020\)](#)

District Of Columbia, Seller's Disclosure Form

Subject to the exemptions set forth at D.C. Code Ann. § 42-1301(b) and D.C. Mun. Regs. tit. 17, § 2708, a seller of residential real property must deliver to prospective buyers a real property disclosure statement on the form set forth in regulation 2708.13.

Statutory section 42-1302 enacted 1999; § 42-1301 amended 2008; regulation amended 2007, amended 2020.

[D.C. Code § 42-1302 \(2020\)](#); *see also* [D.C. Code § 42-1301\(b\) \(2020\)](#); [D.C. Mun. Regs. tit. 17, § 2708.13 \(2020\)](#)

District Of Columbia, Unusual Disclosure Requirements

RADON

The mandatory form requires a seller to disclose environmental hazards, including radon gas, on the property.

LEAD-BASED PAINT

The mandatory form requires a seller to disclose environmental hazards, including lead-based paint. The owner of a dwelling unit constructed before 1978 must disclose to the purchaser or tenant of a dwelling information "reasonably known to the owner about the presence of any of the following conditions":

- lead-based paint;
- lead-based paint hazards; and
- related pending actions ordered by a District government agency.

The disclosures must be provided on the lead disclosure form issued by DDOE.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located. However, the mandatory form generally requires a seller to disclose knowledge of "any substances, materials or environmental hazards" on or affecting the property.

OTHER UNUSUAL REQUIREMENTS

Environmental disclosures

The mandatory form requires the seller to disclose:

- any urea formaldehyde foam insulation;

- environmental problems, including asbestos, formaldehyde, and contaminated soil; and

- any property damage from fire, wind, and floods.

A seller must also disclose on the approved form, in a letter, or, in the case of residential property, in the sales contract, any information regarding underground storage tanks that are or have been located on the property during the seller's ownership. In the sale of commercial property, the seller must also inform prospective buyers of any prior use of the property that might suggest the presence of tanks on the property.

Lead water lines

A seller must also disclose any information regarding water and sewer systems, including:

- the results of any lead tests conducted on the water supply of the property;
- lead-bearing plumbing, including the lead service line serving the property;
- whether the portion of the lead water service line on private property, and the portion of the lead water service line on public property, that serves the property in which the dwelling unit is located has been replaced, and if so, the date of the replacement; and
- inclusion on the DC Water website as a property with lead water service lines.

Historic disclosures

Recent versions of the mandatory form also require the seller to disclose whether the property:

- is "a DC landmark," included in a "designated historic district" or designated a historic property;
- has been cited for "a violation of any historic preservation law or regulation during your ownership"; and
- is subject to a facade or conservation easement.

Regulation 2708.13 amended 2007; r. 5604 amended 1999; r. 3313 amended 2013.

[D.C. Mun. Regs. tit. 17, § 2708.13; tit. 20, § 3313, tit. 20, § 5604 \(2020\); D.C. Code tit. 42, § 1305 \(2020\)](#)

Florida

Florida, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located.

However, a licensee generally must disclose "all known facts that materially affect the value of residential real property and are not readily observable."

Amended 2009.

[Fla. Stat. § 475.278 \(2019\)](#)

Florida, Flood-related Disclosures

No relevant provisions were located.

Florida, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A buyer has no cause of action against the owner or his agent for failing to disclose the fact that:

- an occupant is infected with HIV or diagnosed with AIDS; or
-

the property was or has been suspected of being the site of a homicide, suicide, or death.

Section amended 2003.

[Fla. Stat. § 689.25 \(2019\)](#)

Florida, Seller's Disclosure Form

Research located no Florida statutes or regulations generally requiring a real estate seller to disclose information about property to a prospective buyer on a specified form. A few specific requirements are discussed in "Unusual Disclosure Requirements" below.

Florida, Unusual Disclosure Requirements

RADON

A seller must notify a buyer of the radon risk on at least one document, form, or application executed at the time of or before any contract for the sale or rental of a building. The notification must be as follows:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

LEAD-BASED PAINT

Research located no provision requiring a seller to disclose the existence of lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Energy performance level

The seller of a new residential building must disclose, at the request of a prospective buyer, the energy performance level of the building.

Ad valorem taxes disclosure summary

A prospective owner of residential property must be presented a disclosure summary regarding ad valorem taxes in a form substantially similar to form set forth in § 689.261.

Coastal construction control line

At or before the time a seller and a purchaser both execute a purchase contract for any interest in real property located "partially or totally seaward of the coastal construction control line," as defined in § 161.053, the seller must give the following written disclosure statement to the purchaser in either the contract or in a separate document:

The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shoreline of the property being purchased.

Windstorm mitigation ratings

Fla. Stat. § 289.262, which previously provided that a purchaser of residential property located in the windborne debris region must be informed of the structure's windstorm mitigation rating, has been repealed.

Qualifying improvements for energy efficiency

At or before the time a purchaser executes a sales contract for the purchase of property for which a non-ad valorem assessment for a qualifying improvement relating to energy efficiency, renewable energy, or wind resistance has been levied and an unpaid balance is due, the seller must give the prospective purchaser a written disclosure statement. The disclosure statement must contain the language required by statute and may be contained in the contract or in a separate writing.

Sinkhole

A seller of real property upon which "a sinkhole claim has been made by the seller and paid by the insurer" must disclose to the property's buyer, before the closing:

- that a claim has been paid; and

- whether the full amount of the proceeds were used to repair the sinkhole damage.

Subsurface rights

A seller must provide a prospective purchaser of residential property with "a disclosure summary at or before the execution of a contract if the seller or an affiliated or related entity has previously severed or retained or will sever or retain any of the subsurface rights or right of entry." The disclosure summary must be conspicuous, in boldface type, and in a form substantially similar to that provided by statute.

Tampa Improvement District

Upon the creation of the Water Street Tampa Improvement District, each contract for the initial sale of a parcel or unit within the district must include a disclosure regarding the district's right to impose and levy taxes, user fees, and assessments on the property.

Section 689.261 enacted 2004; § 161.57 amended 2006; § 689.262 repealed 2010; §§ 553.9085, 627.7073, and 404.056 amended 2011; § 163.08 amended 2014; § 689.29 enacted 2014; chapter 2018-183 enacted 2018.

[Fla. Stat. §§ 161.57; 163.08; 404.056\(5\); 553.9085; 627.7073; 689.261, .29 \(2019\); 2018 Fla. Laws ch. 183](#)

Georgia

Georgia, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located.

Georgia, Flood-related Disclosures

No relevant provisions were located.

Georgia, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A buyer has no cause of action against a real property owner, broker or licensee for failing to disclose the fact or suspicion that the property:

- is or was occupied by a person infected with a virus or other disease that is highly unlikely to be transmitted through occupancy of the dwelling; or
- was the site of a homicide, other felony, suicide, or death by accidental or natural causes,

provided that the owner, broker, or licensee generally must answer truthfully to the best of that person's knowledge any question concerning this information. However, an owner, broker, or licensee need not answer a question if providing the information is prohibited by or a violation of any federal or state law.

Similarly, a buyer has no cause of action against an owner for failing to disclose any information or facts that are provided or maintained under the Georgia sexual offender statutes.

Section amended 2001.

Ga. Code § 44-1-16 (LexisNexis 2019)

Georgia, Seller's Disclosure Form

Research located no Georgia statutes or regulations requiring a real estate seller to disclose general information about real property to a prospective buyer. However, commentators have interpreted Georgia's general fraud laws to impose a disclosure duty if:

- there is an intentional concealment; and
- the information is not equally available to both parties to the transaction.

Section amended 1933.

See Ga. Code § 23-2-53 (LexisNexis 2019); Florrie Young Roberts, *Let the Seller Beware: Disclosures, Disclaimers, and "As Is" Clauses*, 31 Real Estate Law Journal 303, 311 (2003)

Georgia, Unusual Disclosure Requirements

AGRICULTURAL ZONED PROPERTY

If the grantor, owner, or owner's agent knows that the property being acquired is within, partially within, or adjacent to any property zoned or identified on an approved county land use plan as agricultural or silvicultural use, the owner or agent must deliver to the prospective purchaser, lessee, or grantee a notice which states the following:

"It is the policy of this state and this community to conserve, protect, and encourage the development and improvement of farm and forest land for the production of food, fiber, and other products, and also for its natural and environmental value. This notice is to inform prospective property owners or other persons or entities leasing or acquiring an interest in real property that the property in which they are about to acquire an interest lies within, partially within, or adjacent to an area zoned, used, or identified for farm and forest activities and that farm and forest activities occur in the area. Such farm and forest activities may include intensive operations that cause discomfort and inconveniences that involve, but are not limited to, noises, odors, fumes, dust, smoke, insects, operations of machinery during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. One or more of these inconveniences may occur as the result of farm or forest activities which are in conformance with existing laws and regulations and accepted customs and standards."

Enacted 1995.

Ga. Code § 44-1-17 (LexisNexis 2019)

Guam

Guam, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located in the Guam Code.

Guam, Flood-related Disclosures

No relevant provisions were located.

Guam, Other Relevant Provisions

No other relevant provisions were located in the Guam Code.

Guam, Seller's Disclosure Form

No generally required disclosure form was located in the Guam Code. However, the form of the required statement regarding the availability or non-availability of power and water on the transferred property is set forth in 21 Guam Code Ann. § 60314.

Section amended 1987.

[21 Guam Code Ann. § 60314 \(2020\)](#)

Guam, Unusual Disclosure Requirements

RADON

Research located no provision in the Guam Code requiring a seller to disclose the existence of radon gas on the property.

LEAD-BASED PAINT

Research located no provision in the Guam Code requiring a seller to disclose the existence of lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision in the Guam Code requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision in the Guam Code requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision in the Guam Code requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located in the Guam Code.

OTHER UNUSUAL REQUIREMENTS

No document transferring a real property interest, other than a lease of less than one year, may be recorded until the transferee has signed and acknowledged a statement, included in the document immediately above the signature line (unless provided otherwise by regulation), indicating that the transferee is aware of the availability or non-availability of power and water on the transferred property. The statement must be substantially in the form provided by 21 Guam Code Ann. § 60314.

Section amended 1987.

Hawaii

Hawaii, Agent's Obligations Regarding Seller's Required Disclosures

A person or entity acting as escrow agent for the sale of residential real property is not deemed to be the seller's or the buyer's agent for purposes of chapter 508D's disclosure requirements, unless the seller or buyer and the escrow agent agree otherwise in writing. If a seller's agent cannot obtain the disclosure statement and does not have the buyer's written statement that he received the disclosure statement, the seller's agent must notify the buyer in writing of the buyer's rights to the disclosure statement and the buyer's rescission rights related to the disclosure. The seller's agent is not required to prepare the disclosure statement, but he must maintain a record of the action he took to effect compliance. Also, if the seller's agent becomes aware of a material fact inconsistent with the disclosure statement or a third party's report, the agent must disclose the facts to the seller, the buyer, and the buyer's agent.

A licensee may be disciplined if he or she fails to ascertain and disclose all material facts concerning a property for which the licensee accepts agency, but the fact that an occupant has AIDS or has been tested for HIV is not considered material. The real estate commission will "consider whether the licensee relied in good faith on information provided by other persons or third parties."

Section 508D-7 amended 2001; 467-14 amended 2017.

[Haw. Rev. Stat. §§ 508D-7; 467-14\(18\) \(2019\)](#)

Hawaii, Flood-related Disclosures

If residential real property lies within the boundaries of a special flood hazard area (as officially designated on Flood Insurance Administration maps promulgated by H.U.D. to determine eligibility for emergency flood insurance programs), the seller must include that "material fact information in the disclosure statement provided to the buyer."

Also, if residential property lies within the anticipated inundation areas designated on the Department of Defense's emergency management tsunami inundation maps, the seller must include that material fact in the disclosure.

Section 508D-15 amended 2018.

[Haw. Rev. Stat. § 508D-15 \(2019\)](#)

Hawaii, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 508D applies to the sale of residential real property.

PSYCHOLOGICALLY IMPACTED PROPERTY

Unless otherwise required, the following are not deemed to be material facts:

- an occupant was afflicted with AIDS or an AIDS-related complex;
- an occupant had been tested for HIV; or
- the property was the site of an act or occurrence that had no effect on the property's physical structure or physical environment.

RELIANCE ON THIRD-PARTY REPORTS

A seller is deemed to provide information "in good faith and with due care" if the disclosure statement includes:

- facts provided to the seller by governmental agencies and departments; or

- existing reports prepared for the seller by third-party consultants, including licensed engineers, land surveyors, geologists, wood-destroying insect control experts, contractors, or other home inspection experts, dealing with matters within the scope of their expertise; and
- facts provided to the seller by a managing agent of a homeowner's association.

A seller's release or waiver to any government agency, contractor, or certain other professionals, for any defect in the design or construction of any residential real property that "measurably affects" the property's value is a material fact that must be contained in a disclosure statement.

Sections 508D-8 and 508D-2 amended 1996; § 506D-4.5 enacted 2004; § 508D-9 amended 2013.

[Haw. Rev. Stat. §§ 508D-2, -4.5, -8, -9 \(2019\)](#)

Hawaii, Seller's Disclosure Form

Unless exempt pursuant to § 508D-3, chapter 508D, which requires certain disclosures, applies to any sale of residential real property. Generally, the seller's "Disclosure Statement" is a written statement prepared by the seller or at the seller's direction, that "purports to fully and accurately disclose" material facts relating to the residential real property being offered that:

- are within the seller's knowledge or control;
- can be observed from visible and accessible areas; or
- must be disclosed under §§ 508D-15 and 508D-4.5.

A "material fact" is a fact, defect, or condition that would reasonably be expected to "measurably affect" the value of the property.

The Hawaii Association of Realtors provides a [standard form](#), which is available online to members.

Section 508D-3 amended 2008; § 508D-4.5 enacted 2004; § 508D-2 amended 1996; § 508D-1 amended 2013.

[Haw. Rev. Stat. §§ 508D-1, -4.5, -2 \(2019\)](#); *see also* [Haw. Rev. Stat. § 508D-3 \(2019\)](#)

Hawaii, Unusual Disclosure Requirements

RADON

Although Hawaii statutes do not specifically mention radon, the existence of radon on the property would probably be deemed to be a material fact.

LEAD-BASED PAINT

Although Hawaii statutes do not specifically mention lead-based paint, the existence of lead-based paint on the property would probably be deemed to be a material fact.

LOCAL AIRPORTS

A seller must disclose if residential real property lies within the boundaries of:

- the "noise exposure area," as indicated on maps prepared by the transportation department pursuant to Federal Aviation Regulations, subject to the availability of maps that designate the four areas by "tax map key (zone, section, parcel)"; or

- the "Air Installation Compatible Use Zone of any Air Force, Army, Navy, or Marine Corps airport" as designated by military authorities.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LABS

Although Hawaii statutes do not specifically mention methamphetamine or drug labs, their existence on the property may be deemed to be a material fact.

OTHER UNUSUAL REQUIREMENTS

Tsunami inundation

The seller must disclose if the residential real property lies within the anticipated inundation areas designated on the defense department's emergency management tsunami inundation maps.

Recorded declarations

If residential real property is subject to a recorded declaration, the seller must provide the following documents and any amendments or supplements:

- any articles of incorporation or other document creating a corporation or association with the power to enforce the declaration;
- the corporation's or association's bylaws;
- a declaration or similar organizational document, and any exhibits; and
- any rules "relating to the use of common areas, architectural control, maintenance of units, or payment of money as a regular assessment or otherwise in connection with the provisions, maintenance, or service for the benefit of the residential real property or other real property or common areas."

The seller is not required to provide this documentation until 10 calendar days after the seller and buyer have received a current title report for the property.

If residential real property is otherwise subject to restrictions or conditions on use because of covenants contained in either the property's deed or another recorded document, the disclosure must also include all documentation relating to any restrictions or conditions, including any unrecorded rules or guidelines. Effective November 1, 2015, this applies "in a manner consistent with and subject to the seller's duty of good faith."

If these documents are available electronically on the Internet, the seller, with the buyer's consent, may provide a written statement to the buyer that directs the buyer to the Internet addresses where the documents are located.

In this context, "declaration" means a recorded document in favor of or enforceable by a cooperative housing corporation, an association of owners of a condominium project, or another association, that:

- restricts or conditions the use of the real property; or
- imposes obligations on the property's owner with respect to "maintenance or operational responsibility for the common areas, architectural control, maintenance of the residential real property being offered for sale, or services for the benefit of the residential real property being offered for sale or other property subject to the declaration including the common areas."

Electricity costs

Before a residential real property sale, the owner must make "a good faith declaration of electricity cost based on the most recent three-month period in which the property was occupied" before the disclosure date. This requirement applies only if the owner "directly pays" the electrical utility bills; it does not apply in a foreclosure or if no electrical utility accounts are associated with the property.

Section 508D-10.5 enacted 2009; § 508D-15 amended 2014; § 508D-3.5 amended 2015; § 508D-1 amended 2018.

[Haw. Rev. Stat. §§ 508D-1, -3.5, -10.5, -15 \(2019\)](#)

Idaho

Idaho, Agent's Obligations Regarding Seller's Required Disclosures

No specifically relevant provisions were located. However, nothing contained in [chapter 55-25](#), the Property Condition Disclosure Act, limits or reduces the duties that a real estate licensee owes his client or the general public. In a regulated real estate transaction, those duties include, among others, the duty to disclose to an unrepresented buyer or seller customer all adverse material facts the licensee actually knows or reasonably should know. Similarly, if a buyer or seller enters into a written contract for representation in a regulated real estate transaction, the licensee owes that buyer or seller client the duty to disclose all adverse material facts the licensee actually knows or reasonably should know.

Section 55-2518 enacted 1994; § 54-2086 amended 2007; § 54-2087 amended 2009.

[Idaho Code §§ 55-2518; 54-2086, -2087 \(2019\)](#)

Idaho, Flood-related Disclosures

No relevant provisions were located.

Idaho, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Any person who intends to transfer residential real property, including rental property not occupied by the owner, must complete all applicable items included in the property disclosure form set forth in § 55-2508.

RELIANCE ON THIRD-PARTY REPORTS

The following are deemed to comply with the disclosure requirements of chapter 55-25, the Property Condition Disclosure Act:

- the delivery of any required information to a transferee by a public agency; and
- the delivery of a report prepared by a person hired to inspect the property in connection with the proposed sale, if the information is provided to the prospective transferee pursuant to a written or oral request.

Section 55-2504 amended 1997; § 55-2511 enacted 1994.

[Idaho Code §§ 55-2504; -2511\(2\), \(3\) \(2019\)](#)

Idaho, Seller's Disclosure Form

Except as provided in § 55-2505, chapter 55-25 applies to the transfer of real property improved with one to four dwelling units by:

- sale;
- exchange;
- installment sale contract;
- lease with purchase option;
- other purchase option; or
- ground lease with improvements.

The required information must be disclosed on the form set forth in § 55-2508, although the seller may substitute alternative forms provided they include the disclosure information required by § 55-2506 and the mandatory disclosure statements set forth in § 55-2507.

Section 55-2504 amended 1997; § 55-2505 amended 2002; § 55-2506 enacted 1994; § 55-2508 amended 2002.

[Idaho Code §§ 55-2504, -2506, -2508 \(2019\)](#); see also [Idaho Code § 55-2505 \(2019\)](#)

[Idaho, Unusual Disclosure Requirements](#)

RADON

Although Idaho disclosure statutes do not specifically address radon, the statutory form generally provides that a seller must disclose any hazardous materials on the property.

LEAD-BASED PAINT

Although Idaho disclosure statutes do not specifically address lead-based paint, the statutory form generally provides that a seller must disclose any hazardous materials on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Although Idaho disclosure statutes do not specifically address methamphetamine or drug lab disclosure, the statutory form generally provides that a seller must disclose any hazardous materials on the property.

OTHER UNUSUAL REQUIREMENTS

The statutory form requires the seller to disclose any "other problems, including legal, physical or other" not listed on the disclosure form.

Section amended 2002.

[Idaho Code § 55-2508 \(2019\)](#)

Illinois

Illinois, Agent's Obligations Regarding Seller's Required Disclosures

No statutes or regulations generally obligate an agent to assure that the seller makes the appropriate disclosures, but the agent's licensing statutes require a licensee engaged by a seller to disclose to prospective buyers all latent material adverse facts pertaining to the property's physical condition that the licensee actually knows and that could not be discovered by a customer's reasonably diligent inspection. However, no cause of action arises against a licensee for failing to disclose:

- that an occupant of the property was afflicted with HIV or any other medical condition;
- that the property was the site of an act that had no effect on the physical condition of the property or its environment or structures, including, but not limited to, murder or suicide;
- facts about property that is not the subject real estate; or

- the physical condition of property that is not the subject real estate and that do not have a substantial adverse effect on the subject real estate's value.

A licensee is not liable to a customer for providing false information to the customer if the false information was provided to the licensee by the licensee's client, and the licensee did not have actual knowledge that the information was false.

Also, a licensee representing a client must promote the client's best interests by, among other things, disclosing to the client known material facts, unless that information is confidential. Material facts do not include the following "when located on or related to real estate that is not the subject of the transaction":

- physical conditions that do not have a substantial adverse effect on the real estate's value;
- "fact situations"; or
- "occurrences and acts at the property."

Section 454/15-20 amended 2001; § 454/15-25 amended 2019; § 454/15-15 amended 2019.

[225 Ill. Comp. Stat. 454/15-15, -20, -25 \(2019\)](#)

Illinois, Flood-related Disclosures

The Illinois statutory disclosure form requires the following flood-related disclosures:

- whether the seller is aware of flooding or recurring leakage problems in the crawl space or basement; and
- whether the seller is aware that the property is located in a flood plain or whether the seller currently has flood hazard insurance on the property.

Section amended 2014.

[765 Ill Comp. Stat. 77/35 \(2019\)](#)

Illinois, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Unless otherwise provided, the Residential Real Property Disclosure Act applies to any transfer of residential real property by:

- sale;
- exchange;
- installment land sale contract;
- beneficial interest assignment;
- lease with purchase option;

- ground lease; or
- ground lease assignment.

PSYCHOLOGICALLY IMPACTED PROPERTY

See "Agent's Obligations Regarding Seller's Required Disclosures" above.

Section enacted 1994.

[765 Ill. Comp. Stat. 77/10 \(2019\)](#)

Illinois, Seller's Disclosure Form

Unless exempt under 765 Ill. Comp. Stat. 77/15, a residential real property seller must complete all applicable items in the Residential Real Property Disclosure Report set forth at 765 Ill. Comp. Stat. 77/35. The disclosure must be made on the required form.

A seller must disclose material defects of which he or she has actual knowledge, but is not obligated "to make any specific investigation or inquiry in an effort to complete the disclosure statement."

The seller is not liable for any error, inaccuracy, or omission of any information delivered if:

- "the seller had no knowledge of the error, inaccuracy, or omission;"
- "the error, inaccuracy, or omission was based on a reasonable belief that a material defect or other matter not disclosed had been corrected;" or

- "the error, inaccuracy, or omission was based on information provided by a public agency or by a licensed engineer, land surveyor, structural pest control operator, or by a contractor about matters within the scope of the contractor's occupation and the seller had no knowledge of the error, inaccuracy, or omission."

Sections 77/15 and 77/20 enacted 1994; 77/35 amended 2014; 77/25 enacted 1997.

[765 Ill Comp. Stat. 77/20, /25, /35 \(2019\)](#); see also [765 Ill. Comp. Stat. 77/15 \(2019\)](#)

Illinois, Unusual Disclosure Requirements

RADON

The statutory form provides that the seller must disclose unsafe concentrations of radon on the premises. Furthermore, unless specifically excluded in 420 Ill. Comp. Stat. Ann. 46/20, a seller must provide the following to the buyer of any residential real property interest:

- the IEMA pamphlet entitled "Radon Testing Guidelines for Real Estate Transactions" (or an equivalent IEMA-approved pamphlet); and
- the "Illinois Disclosure of Information on Radon Hazards," stating that the property "may present the potential for exposure to radon before the buyer is obligated under any contract to purchase residential real property."

A seller is not obligated to conduct radon testing or mitigation activities.

The form for the "Disclosure of Information on Radon Hazards" is set forth in 420 Ill. Comp. Stat. Ann. 46/10.

If the radon disclosures occur after the buyer has made a purchase offer, the seller must:

- complete the required disclosures before accepting the offer; and
- allow the buyer an opportunity to review the information and possibly amend the offer.

See 420 Ill. Comp. Stat. 46/25 for radon hazard disclosures that a lessor must give to current and prospective tenants.

LEAD-BASED PAINT

The statutory form provides that the seller must disclose unsafe concentrations of or unsafe conditions relating to lead paint, lead water or plumbing pipes, and lead in the soil.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Although research located no provision requiring a seller to disclose whether the property is located in an earthquake zone, the statutory form provides that a seller must disclose any "mine subsidence," underground pits, settlement, sliding, upheaval, or other earth stability defects on the premises.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The state's statutory form requires the seller to disclose whether he or she is aware that the property "has been used for the manufacture of methamphetamine as defined in Section 10 of the Methamphetamine Control and Community Protection Act."

OTHER UNUSUAL REQUIREMENTS

Unusual environmental disclosures

The statutory form provides that the seller must disclose:

- unsafe conditions relating to asbestos on the premises; and
- any underground fuel storage tanks on the property.

Section 46/20 amended 2009; § 46/15 amended 2011; § 46/25 enacted 2011; § 46/10 amended 2012; § 77/35 amended 2014.

[420 Ill. Comp. Stat. 46/10, /15, /20, /25; 765 Ill Comp. Stat. 77/35 \(2019\)](#)

Indiana

Indiana, Agent's Obligations Regarding Seller's Required Disclosures

Although no general provisions were located addressing an agent's duty to assure that the seller makes the appropriate disclosures, Indiana licensing statutes provide that a licensee representing a seller must disclose to a prospective buyer:

- known adverse material facts concerning the property's physical condition; and
- facts required by statute or regulation to be disclosed that the buyer could not discover by a reasonable and timely inspection.

Information contained in prior transaction records that a broker company maintains concerning "any existing or previous adverse material facts or risks with respect to real property" are not imputed to a broker or an affiliated licensee unless the broker or affiliated licensee "had actual knowledge of any adverse material facts or risks with respect to the real property." A person may not bring a cause of action against a broker or licensee for failing to disclose adverse material facts or risks based on imputed knowledge.

Effective July 1, 2015, the "mere transporting, transmitting, or delivering of a document related to a real estate transaction does not impose any liability for the content of the document or any statement within the document." Also, more specifically, a licensee is not liable for the information contained in a seller's real estate disclosure form, unless:

- the licensee signed the disclosure form; or
- the licensee knew before closing that the information was false or the licensee "acted in reckless disregard as to whether the information was true or false."

Section 25-34.1-10-10 amended 1999; § 25-34.1-10-12.5 amended 2015; § 25-34.1-6-4 enacted 2015.

[Ind. Code Ann. §§ 25-34.1-10-10, -12.5; -6-4 \(2019\)](#)

Indiana, Flood-related Disclosures

The seller must disclose certain information related to floods, including:

- damage from floods;
- whether the property is in a flood plain; and
- whether the owner "currently" pays flood insurance.

Form amended 2014.

[*Seller's Residential Real Estate Sales Disclosure \(June 2014\)*](#) (form also available at [876 Ind. Admin. Code 9-1-2 \(2020\)](#))

Indiana, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 32-21-5 applies to residential property containing one to four residential dwelling units being transferred by:

- sale;
- exchange;
- installment sales contract; or
- lease with purchase option.

PSYCHOLOGICALLY AFFECTED PROPERTY

An owner or agent need not disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction. However, an owner or agent may not intentionally misrepresent a fact concerning a psychologically affected property in response to a direct inquiry from a transferee.

"Psychologically affected property" includes real estate or a dwelling that is for sale, rent or lease and to which one or more of the following facts or a reasonable suspicion of facts apply:

- that an individual died on the property; or
- that the property was the site of: (a) a felony under Ind. Code Ann. tit. 35; (b) criminal organization (as defined in Ind. Code Ann. § 35-45-9-1) activity; (c) the discharge of a firearm involving a law enforcement officer while engaged in the officer's official duties; or (d) the illegal manufacture or distribution of a controlled substance.

Note that effective July 1, 2018, the fact that an occupant of the property was afflicted with or died from a disease related to the human immunodeficiency virus (HIV) is no longer included in the definition of "psychologically affected property."

Sections 32-21-5-1, 32-21-6-5, and 32-21-6-6 enacted 2002; § 32-21-6-3 amended 2018.

[Ind. Code Ann. §§ 32-21-5-1; -6-3, -6-5, -6-6 \(2019\)](#)

Indiana, Seller's Disclosure Form

Unless exempt pursuant to § 32-21-5-1(1)(b), a seller must disclose property defects to a potential buyer. "Defect" includes conditions that would:

- have a "significant adverse effect" on the property's value;

- significantly impair the future occupants' health or safety; or
- if not repaired, removed, or replaced, significantly shorten the premises' "normal life."

Indiana's [Seller's Residential Real Estate Sales Disclosure](#) form is available online. (Form is also available at [876 Ind. Admin. Code 9-1-2 \(2020\)](#))

Before closing, an accepted offer is not enforceable until the owner and the prospective buyer have signed a disclosure form. After closing, an owner's failure to deliver a disclosure statement to the buyer "does not by itself invalidate a real estate transaction." A buyer may not invalidate a real estate transaction or a purchase contract because the buyer failed to sign a seller's disclosure form that the buyer has received or acknowledged.

Statutory sections 32-21-5-4 and 32-21-5-1 enacted 2002; 32-21-5-10 amended 2013; form amended 2014.

[Ind. Code Ann. §§ 32-21-5-4, -10 \(2019\)](#); see also [Ind. Code Ann. § 32-21-5-1 \(2019\)](#)

Indiana, Unusual Disclosure Requirements

RADON

The mandatory form requires a seller to disclose any hazardous conditions on the property, including radon gas in a house or well.

LEAD-BASED PAINT

The mandatory form requires a seller to disclose any hazardous conditions on the property, including lead paint.

LOCAL AIRPORTS

The mandatory form requires a seller to disclose whether the property is located within one mile of an airport.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the mandatory form does require the seller to disclose "expansive soil."

METHAMPHETAMINE/DRUG LAB DISCLOSURES

Indiana's mandatory disclosure form must include known contamination related to methamphetamine and controlled substances on the property. The owner must disclose known:

- contamination caused by the manufacture of a controlled substance on the property that an qualified certified inspector has not certified as decontaminated; and
- the manufacture of methamphetamine or the dumping of waste from the manufacture of methamphetamine in a residential structure on the property.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The mandatory form requires a seller to disclose whether:

- the improvements have aluminum wiring;
- there are any hazardous conditions on the property, including methane gas, radioactive material, landfill, mineshaft, expansive soil, toxic materials, mold, biological contaminants, asbestos insulation, or PCB's;
- the property contains any underground storage tanks; and
- any septic or geothermal and heat pump system is defective.

Homeowners' associations

For property transfers after June 30, 2015, a seller must provide to the purchaser no later than 10 days before closing a disclosure that the property is in a community governed by a homeowners' association. The disclosure must also contain:

- a copy of the recorded governing documents;
- a statement indicating whether there are assessments and the amount; and
- information about a board member, homeowners' association agent, or other person who has a contract with the homeowners' association to provide any management services for the homeowners' association.

Statutory section 32-21-5-8.5 amended 2015; § 32-21-5-7 amended 2018; form amended 2014.

[Ind. Code Ann. §§ 32-21-5-7, -8.5 \(2019\)](#); [Seller's Residential Real Estate Sales Disclosure \(June 2014\)](#) (form also available at [876 Ind. Admin. Code 9-1-2 \(2020\)](#))

Iowa

Iowa, Agent's Obligations Regarding Seller's Required Disclosures

A seller's broker or salesperson must deliver the disclosure statement to the buyer, unless the seller or buyer has instructed otherwise in writing. At the time a licensee obtains a listing, the listing agent must obtain a completed disclosure form signed by each seller. A seller's licensee must deliver the executed statement to the potential buyer, the potential buyer's agent, or any other third party representing the buyer before the seller makes a written offer to sell or accepts a written offer to buy. The licensee representing a seller must:

- attempt to obtain the buyer's signature on the statement;
- provide the seller and the buyer with a copy of the fully executed statement; and
- maintain a copy of the written acknowledgment in the transaction file.

If the licensee is unable to obtain the buyer's signature, the licensee must document his delivery of the disclosure statement and maintain that documentation in his transaction file for at least five years if the transaction closes.

The property's owner is responsible for the accuracy of the information submitted on the required groundwater hazard statement, and the owner's agent is not liable for the accuracy of that information provided by the owner.

Note too that in providing brokerage services to all parties to a transaction, a licensee must disclose to each party all material adverse facts that the licensee knows except for: (a) material adverse facts known by the party; (b) material adverse facts the party could discover through a reasonably diligent inspection, and which would be discovered by a reasonably prudent person under like or similar circumstances; (c) material adverse facts the disclosure of which is prohibited by law; and (d)

material adverse facts that are known to a person who conducts an inspection on the party's behalf. [Iowa Code § 543B.56\(1\)\(c\) \(2020\)](#).

Statutory section 558A.5 enacted 1993; § 558.69 amended 2019; regulation amended 2018.

[Iowa Code §§ 558A.5\(2\), 558.69 \(2020\)](#); [Iowa Admin. Code r. 193E-14.1\(2\) \(2020\)](#)

Iowa, Flood-related Disclosures

The mandatory disclosure form requires the owner to disclose the following flood-related items:

- whether the property is located in a floodplain, and, if so, the floodplain designation; and
- whether there are any known flooding problems.

Regulation amended 2018.

[Iowa Admin. Code r. 193E-14.1\(7\) \(2020\)](#)

Iowa, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 558A applies to any residential property transfer, which includes the transfer or conveyance of property including one to four dwelling units by:

- sale;
-

exchange;

- real estate contract; or
- "any other method by which real estate and improvements are purchased."

RELIANCE ON THIRD-PARTY REPORTS

The disclosure statement may include a report prepared by a person qualified to make judgment on a matter within the person's expertise, including but not limited to:

- a professional licensed land surveyor;
- a geologist;
- a structural pest control operator; or
- a building contractor.

DECLARATION OF VALUE REPORTING DISCLOSURE REQUIREMENTS

With each declaration of value submitted to the county recorder, the recording party must submit a groundwater hazard statement that includes information regarding the following situated on the property:

- private burial sites;
- wells;
- disposal sites for solid waste that the department of natural resources has deemed to be potentially hazardous;
- underground storage tanks;
- hazardous waste; and
- private sewage disposal systems.

The groundwater hazard statement must be signed by at least one of the sellers or "their agents." The seller must provide the property's buyer with a copy of the submitted groundwater hazard statement.

Statutory section 558A.1 amended 2017; § 558.69 amended 2019; § 558A.4 amended 2012; regulation amended 2018.

[Iowa Code §§ 558.69; 558A.1, .4 \(2020\); Iowa Admin. Code r. 193E-14.1\(4\) \(2020\)](#)

Iowa, Seller's Disclosure Form

Subject to the exemptions set forth in § 558A.1(4), a person transferring real property, or a licensee acting on that person's behalf, must deliver a written disclosure statement to any person interested in purchasing the property. The disclosure statement must be made by personal delivery, certified or registered mail, or electronic delivery to the buyer or to the buyer's agent. If delivery is electronic, the buyer must acknowledge receipt.

All property disclosure statements must contain at least the information required by the sample *Residential Property Seller Disclosure Statement* set forth in Iowa Admin. Code r. 193E-14.1. Although the Commission recommends the use of the form set forth in the regulation, no particular language is required provided all mandatory items are included.

Statutory sections 558A.1 and 558A.2 amended 2017; regulation amended 2018.

[Iowa Code §§ 558A.1, .2 \(2020\); see also Iowa Admin. Code r. 193E-14.1\(6\), \(7\) \(2020\)](#)

Iowa, Unusual Disclosure Requirements

RADON

The suggested form requires a seller to disclose the results of any known tests for the presence of radon gas. Also, a seller must acknowledge the requirement that the buyer must be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Effective July 1, 2015, Iowa statutes also address a radon tester's disclosure of test results.

Generally, a person may not disclose radon test results or the address or name of the owner of a nonpublic building that the person tested for radon, unless the building's owner waives, in writing, this right of confidentiality. However, a certified or credentialed person may disclose the results of a radon test to a potential buyer of a nonpublic building if:

- the buyer has presented a purchase offer; and
- the potential buyer paid for the testing.

Any disclosed test results must be the result of a test performed during the five years before the disclosure date.

LEAD-BASED PAINT

The suggested form requires a seller to disclose whether any lead-based paint is present in the structure.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures (see Other Unusual Requirements below), and a *landlord* or his or her agent must disclose to each tenant in writing if the property is listed in the federal comprehensive environmental response compensation and liability information system.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No specifically relevant provision was located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The suggested form requires a seller to disclose:

- whether any asbestos is present in the structure; and
- any known structural damage.

As of August 19, 2009, the state's disclosure form no longer requires a seller to disclose whether a property is located in a real estate improvement district.

Statutory section 562A.13 amended 2004; § 136B.2 amended 2015; regulation amended 2018.

[Iowa Code §§ 136B.2; 562A.13 \(2020\); Iowa Admin. Code r. 193E-14.1\(7\) \(2020\)](#)

Kansas

Kansas, Agent's Obligations Regarding Seller's Required Disclosures

No provisions specifically related to the seller's required disclosures were located.

However, a seller's or a landlord's agent generally owes no duty or obligation to a customer, except that a licensee must disclose to a customer all adverse material facts the licensee actually knows, including, but not limited to:

- any environmental hazards affecting the property that are required to be disclosed by law;
- the property's physical condition;
- any material defects in the property or in the property's title; or
- any material limitation in the client's ability to perform the contract's terms.

A seller's or landlord's agent owes no duty:

- to conduct an independent inspection of the property for the customer's benefit; and
- to independently verify the accuracy or completeness of any statement made by the client or any qualified third party.

Generally, a seller's or a landlord's agent is not required to disclose to a client or customer information relating to the property's physical condition if a qualified third party has prepared a written report regarding the property's physical condition and provided it to the client or customer. However, a seller's or landlord's agent must disclose to the client or customer any facts the licensee actually knows that were omitted from or contradict any information included in that written report.

When performing an investigation or inspection and making a disclosure in connection with a real estate transaction, a licensee must "exercise the degree of care expected to be exercised by a reasonably prudent person who has the knowledge, skills and training required for licensure as a broker or salesperson."

Section 58-30,106 amended 2015.

[Kan. Stat. § 58-30,106\(d\) \(2019\)](#)

Kansas, Flood-related Disclosures

No relevant provisions were located.

Kansas, Other Relevant Provisions

No relevant provisions were located.

Kansas, Seller's Disclosure Form

Research located no Kansas statutes or regulations requiring a real estate seller to disclose general information about property to a prospective buyer. A few specific requirements are discussed in "Unusual Disclosure Requirements" below.

The Kansas Real Estate Commission does not provide a seller's property disclosure form in its forms library.

See [Kan. Real Estate Comm'n, Forms \(last visited May 13, 2020\)](#)

Kansas, Unusual Disclosure Requirements

RADON

Each contract for the sale of residential real property must contain the following language:

Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas department of health and environment recommends all home-buyers have an

indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to www.kansasradonprogram.org.

LEAD-BASED PAINT

Research located no state-law provisions requiring a seller to disclose whether lead-based paint is present in the structure.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No specifically relevant provision was located.

OTHER UNUSUAL REQUIREMENTS

Sexual offender notice

A law enacted in 2007 requires a specific *notice* related to sexual offenders, but it does not require specific *disclosures*. Each contract for the sale of residential real estate must contain the following as part of the contract:

Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you, as the buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://www.Kansas.gov/kbi> or by contacting the local sheriff's office.

Energy efficiency

Except as provided in § 66-1228(b) (regarding structures that are subject to specified federal disclosure requirements), a person building or selling a "previously unoccupied new residential structure" that has one to four family units must disclose to the buyer or prospective buyer, upon request or before signing the contract and before closing if changes have occurred or are requested, "information regarding the thermal energy efficiency of the structure." For new residential structures that are "completed and suitable for occupancy, but unsold," the builder or seller must make the completed disclosure available to the buyer or prospective buyer when the residence is shown and at any other time upon request. The disclosure must be made on a form prepared and disseminated by the state corporation commission, which must be substantially similar to the form provided by § 66-1228(a).

Section 58-3078 enacted 2007; § 66-1228 amended 2007; § 58-3078a enacted 2008.

[Kan. Stat. §§ 58-3078, -3078a; 66-1228 \(2019\); see Kan. Real Estate Comm'n, Required Statutory Disclosure Addendum](#)

Kentucky

Kentucky, Agent's Obligations Regarding Seller's Required Disclosures

A seller must complete the disclosure form at the time he executes a listing agreement or other agreement to market the property. The listing agent must:

- provide any prospective buyer or his agent a copy of the form upon request or within 72 hours of the listing agent's receipt of a written purchase offer; or
- solicit the buyer's signature on a copy of the form, which the listing agent must retain in his records.

If the buyer refuses to sign the form, the licensee must record the buyer's refusal on the form and retain a copy in his records.

If the owner is selling his property without a listing agreement, any licensee involved in the transaction must:

- provide a blank form to the owner and ask him to complete it;
- deliver the completed form to the potential buyer no later than 120 hours after the creation of a sale contract; and
- solicit the buyer's signature evidencing the agent's compliance with [§ 324.360](#) and retain a copy in his records.

If the buyer refuses to sign, the licensee must record the buyer's refusal on the form and retain a copy in his records.

If the seller refuses to complete the form, the licensee involved in the transaction must communicate the refusal to the prospective purchaser.

A licensee may not complete any portion of the form unless:

- the licensee owns the property; or
- the owner has asked the licensee in writing to complete the form.

A licensed agent representing a party in the sale, leasing, or exchange of real property has no affirmative duty to disclose to any person who acquires real property information not required by chapter 324 or federal law.

The disclosure form provides that it is "not a warranty of any kind by the seller or by any agent representing any seller in this transaction."

Note too that the Real Estate Commission may impose sanctions against a licensee who fails to disclose "known defects which substantially affect the value of the property." [Ky. Rev. Stat. § 324.160\(4\)\(b\) \(2019\)](#).

Section 324.360 amended 2000; § 324.162 enacted 2003.

[Ky. Rev. Stat. §§ 324.360\(4\)—\(6\), \(8\), \(9\); .162 \(2019\)](#)

Kentucky, Flood-related Disclosures

The mandatory seller's disclosure form includes the following flood-related disclosures:

- whether the property has had flooding or drainage problems;
- whether the property is located within a Special Flood Hazard Area (SFHA) mandating the purchase of flood insurance for federally backed mortgages; and

- whether there is a retention /detention basin, pond, lake, creek, spring, or water shed on or adjoining this property.

Regulation amended 2016; form revised December 2019.

[Seller's Disclosure of Property Condition Form \(Dec. 2019\)](#)

Kentucky, Other Relevant Provisions

No other relevant provisions were located.

Kentucky, Seller's Disclosure Form

Subject to the exceptions set forth in § 324.360(7), a seller must disclose the condition of single-family residential real estate if a licensee receives compensation for the transaction. The seller must complete the [Seller's Disclosure of Property Condition](#) form available at the Board of Real Estate Professionals website.

Statutory section amended 2000; regulatory form amended December 2019.

[Ky. Rev. Stat. § 324.360\(1\), \(2\), \(7\) \(2019\)](#)

Kentucky, Unusual Disclosure Requirements

RADON

The mandatory form requires the seller to disclose any testing for radon gas and the results of any such test.

LEAD-BASED PAINT

The mandatory form requires the seller to disclose any lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the mandatory form requires the seller to disclose any "soil stability" problems.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A property owner who leases, rents, or sells contaminated property upon which a methamphetamine contamination notice has been posted must disclose in writing to any potential lessee, tenant, or buyer that the property is contaminated with methamphetamine and has not been decontaminated. If the property has been decontaminated and released by the cabinet, this notice is not required.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The mandatory form requires the seller to disclose:

- any "retention/detention basin, pond, lake, creek, spring, or water shed on or adjoining" the property;
- any use of urea formaldehyde or asbestos in the home;
- any underground "storage tanks, old septic tanks, field lines, cisterns, or abandoned wells" on the property;
- any other defective conditions;
- any known environmental hazards; and
- whether the house has been damaged by fire or other disaster, such as a tornado or hail.

The form also requires the disclosure of information regarding:

- whether any roof repair involved placing shingles on the roof instead of replacing the entire roof; and
- whether the seller is aware of mold or other fungi in the property;

- whether the house has ever had pets living in it; and
- if the property is in a historic district.

Private transfer fees

If property is subject to an obligation to pay a private transfer fee upon a property's subsequent resale, a *sale contract* must disclose that obligation.

Condominiums

See [Ky. Rev. Stat. § 381.9203](#) for additional disclosures that the seller of a condominium unit must furnish to a purchaser or a purchaser's agent before the unit is conveyed.

Section 224.1-410 amended 2010 and renumbered 2013; § 381.9203 amended 2012; § 382.796 enacted 2012.

[Ky. Rev. Stat. §§ 224.1-410\(10\), 381.9203; 382.796 \(2019\); *Seller's Disclosure of Property Condition Form* \(Dec. 2019\)](#)

Louisiana

Louisiana, Agent's Obligations Regarding Seller's Required Disclosures

A licensee representing a residential real estate buyer or seller must inform the represented party of his or her disclosure duties and rights. A licensee representing a seller is not liable for any error, inaccuracy, or omission in a property disclosure document, unless he or she has actual knowledge of the misinformation.

Note too that a licensee may be disciplined for failure to “disclose to a buyer a known material defect regarding the condition of real estate of which a broker, salesperson, or timeshare interest salesperson has knowledge.” [La. Rev. Stat. § 37:1455\(27\) \(2019\)](#).

Failure to comply with Louisiana's statutory provisions regarding methamphetamine disclosures does "not create a cause of action" against the property owner or the owner's agent, among others.

Section 9:3198.1 enacted 2008; § 9:3198 amended 2018.

[La. Rev. Stat. §§ 9:3198, :3198.1 \(2019\)](#)

Louisiana, Flood-related Disclosures

Louisiana's disclosure form requires a seller to disclose the following flood-related disclosures:

- whether any "flooding, water intrusion, accumulation, or drainage" problems have been experienced with respect to the land prior to or during the time the seller owned the property, and, if so, the "nature and frequency of the defect;"
- whether "any part of the property been determined to be or pending determination as a wetland by the United States Army Corps of Engineers under §404 of the Clean Water Act;"
- the property's flood zone classification, and the source and date of that information, including the survey or Flood Elevation Certificate date;
- whether prior to or during the time the seller owned the property any structure on the property has ever flooded, by rising water or otherwise, and if so, the nature and frequency of the defect;

- whether there is flood insurance on the property, and if yes, a copy of the policy declaration page must be attached to the disclosure form;
- whether the seller has a flood elevation certificate in his or her possession that will be shared with the buyer; and
- whether prior to or during the time the seller owned the property there has been property damage, including flood, and, if so, the repair status of the related property damages/defects.

Form effective Jan, 1, 2020.

[Louisiana Property Disclosure Form \(Jan. 1, 2020\)](#)

Louisiana, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

"Residential real property" means real property consisting of one to four single-family residential dwellings.

RELIANCE ON THIRD-PARTY REPORTS

A seller is not liable for any error, inaccuracy, or omission contained in a property disclosure document if either:

- the error, inaccuracy, or omission was not a willful misrepresentation according to the best of the seller's information, knowledge, and belief; or
-

the inaccuracy or omission was based on information provided by a public body or professional with a license or special knowledge who provided a report or opinion that the seller reasonably believed to be correct.

SEX OFFENDER LOCATION NOTIFICATION

Every written contract for sale of residential immovable property must contain a notice of the availability to the public of access to a statewide database disclosing the locations of individuals required to register as sex offenders. The notice must include the telephone number and Internet site for the statewide database. Upon delivery of the notice to the transferee of the property, the seller, broker, or licensee is not required to provide any information in addition to that contained in the notice regarding the proximity of registered sex offenders. The information in the notice is deemed to be adequate to inform the transferee about the existence of a statewide database of the locations of registered sex offenders and information from the database regarding those locations.

MOLD INFORMATION BOOKLET

Pursuant to [La. Rev. Stat. § 37:1470](#), the Real Estate Commission has approved the EPA's mold informational pamphlets for optional distribution to buyers by licensees in connection with any real estate transaction. See [La. Real Estate Comm'n, Consumers webpage](#).

If a licensee delivers the mold informational pamphlet to the buyer, he or she must do so at or before the time a contract for sale is entered into by the parties. If the informational pamphlet is delivered to the buyer, the licensee is not required to provide any additional information concerning mold. The information contained in the mold informational pamphlet is deemed to be adequate to inform the buyer regarding common mold-related hazards that can affect real property.

Delivery of the pamphlet does not "alter or affect the existing disclosure duties of any party to a real estate transaction, or their agents, including but not limited to the duty of a licensee to disclose any known material defect regarding the condition of the property."

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact or suspicion that a property might be or is psychologically impacted is not a material fact regarding the condition of real estate that must be disclosed in a real estate transaction. This includes, but is not limited to:

- that an occupant was infected with HIV or diagnosed with AIDS, or any other disease that has been determined to be highly unlikely to be transmitted through the occupancy of a dwelling place; or
- that the property was the site of a homicide, other felony, or a suicide.

No cause of action may arise against a real estate owner or his or her agent for the failure to disclose to a buyer that the transferred property was psychologically impacted.

Section 37:1468 enacted 1991; §§ 9:3196 and 9:3198 amended 2018; § 37:1469 enacted 2001; § 37:1470 enacted 2003.

[La. Rev. Stat. §§ 9:3196, :3198; 37:1468, :1469, :1470 \(2019\)](#)

Louisiana, Seller's Disclosure Form

A residential real property seller must complete a property disclosure document in the form prescribed by the Louisiana Real Estate Commission. The form, which is entitled [Louisiana Property Disclosure Form](#), is available at the [Louisiana Real Estate Commission's website](#). (Note that Louisiana regulations provide that the document must be "in a form prescribed by the Louisiana Real Estate Commission or a form that contains at least the minimum language prescribed by the commission.")

The document must disclose at least all known defects in residential real property. "Known defect" means a condition actually known by the seller that:

- has a substantial adverse effect on the property's value;

- significantly impairs future occupants' health or safety; or
- if not repaired, removed, or replaced, would significantly shorten the premises' expected normal life.

The seller must complete the disclosure in good faith to the best of his or her belief and knowledge. If the seller has no knowledge or information required by the disclosure document, he or she must so indicate on the disclosure statement.

Sections 9:3196, 9:3197, and 9:3198 amended 2018; regulation amended 2011.

[La. Rev. Stat. §§ 9:3196, :3197, :3198 \(2019\); La. Admin. Code tit. 46, § 3601 \(2019\); *Property Disclosure Exemption Form* \(Jan. 1, 2020\)](#)

Louisiana, Unusual Disclosure Requirements

RADON

The disclosure form requires a seller to disclose the presence of radon gas on the property.

LEAD-BASED PAINT

A seller must disclose the presence of lead-based paint. Louisiana's [Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards, Lead Warning Statement](#) form is available online.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures, including whether the property or any of its structures contain hazardous waste or chemical storage tanks. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

Louisiana's required property disclosure documents must include a statement regarding whether an illegal laboratory for producing or manufacturing methamphetamine was ever located on the property.

Once a property has been removed from the state's list of contaminated properties maintained by the Department of Environmental Quality, the property owner is not required to report or otherwise disclose the past contamination. However, the required disclosure form does not contain that exception; it requires a seller to disclose any "crystal meth exposure" on the property.

OTHER UNUSUAL REQUIREMENTS

Required by disclosure form

The Real Property Disclosure Form requires the seller to disclose:

- termite damage;
- any exterior insulation and finish system or other synthetic stucco; or
- certain environmental problems, including asbestos, formaldehyde, chemical storage tanks, contaminated soil or water, hazardous waste, toxic mold, or other mold or mildew;
- pets;
- foundation repair and information regarding any transferable warranties;
- any polybutylene piping in the structure;
- any aluminum wiring in the structure;
- whether there is high-speed Internet access available; and
- whether there is any pending litigation regarding the property.

Zoning

The disclosure form must also include a clause for the seller to indicate whether the property has been zoned commercial or industrial.

Homeowners' associations

The seller must include with the property disclosure documents a statement notifying the purchaser as to whether or not he is obligated to be a member of a homeowners' association. The statement must inform the purchaser:

- that the information related to any homeowners' association is summary in nature;

- that the covenants and association governing documents are a matter of public record; and

- how to obtain such documents.

Sewerage treatment systems

The [Louisiana Disclosure of Information on Residential Sewerage Treatment Systems \(Sept. 1, 2019\)](#) addendum form is available online.

Private transfer fees

A seller of "an immovable" must furnish to a purchaser a written statement that discloses the existence of any private transfer fee obligation. The statement must include:

- a description of the private transfer fee obligation; and
- a statement that Louisiana law subjects private transfer fee obligations to certain prohibitions.

Contaminated drywall

The residential property disclosure form requires information regarding whether the property includes contaminated drywall or sheetrock or contaminated flooring.

Salt domes

Property disclosure documents must include a statement regarding:

- whether a "cavity created within a salt stock by dissolution with water lies underneath the property"; and
- whether the purchasing property is within 2640 feet of a solution mining injection well.

Section 3198.1 enacted 2008; § 9:3135 enacted 2010; §§ 9:3196, 9:3197, and 9:3198 amended 2018; disclosure form mandatory effective Jan, 1, 2020.

[La. Rev. Stat. §§ 9:3135, :3196, :3197, :3198, 3198.1 \(2019\); Louisiana Property Disclosure Form \(Jan. 1, 2020\)](#)

Maine

Maine, Agent's Obligations Regarding Seller's Required Disclosures

GENERAL PROVISIONS

A licensee generally must obtain and provide disclosure information regarding:

- private water supplies;

- heating systems or sources;

- waste disposal systems; and

- known hazardous materials.

A *listing licensee* must obtain the information necessary to make the required disclosures to buyers and must "make a reasonable effort to assure that the information is conveyed to a selling licensee." A *selling licensee* must obtain from the listing licensee the information necessary for making the required disclosures and for assuring that the disclosures are made to the buyer. If the property is not listed, a licensee must obtain from the seller the information necessary for making the required disclosures and for assuring that the disclosures are made to the buyer.

The required information must be conveyed, in writing, before or during an offer's preparation. If the information is not available, that fact must be conveyed in writing.

Note too that a seller agent must "treat all prospective buyers honestly and may not give false information and shall disclose in a timely manner to a prospective buyer all material defects pertaining to the physical condition of the property of which the seller agent knew or, acting in a reasonable manner, should have known." The seller agent is not liable for providing false information to a buyer if the information was provided to the agent by his or her client and the agent did not know, or reasonably should not have known, the information was false. The agent need not discover latent property defects. [Me. Rev. Stat. tit. 32, § 13273\(2\)\(A\) \(2019\)](#).

PRIVATE WATER SUPPLY

A licensee listing "a single-family residential property, a multifamily property, a residential lot or a commercial property with a residential component served by a private water supply" and a licensee in such a transaction in which the property is not listed must ask the seller for the following information:

- the system type;

- the system location;

- any malfunctions;

- the installation date;

- the most recent water-test date; and

- whether the seller has experienced a problem, such as an "unsatisfactory water test or a water test with notations."

HEATING

A licensee listing a single-family residential property, a multifamily property or a commercial property with a residential component, and a licensee in such a transaction in which the property is not listed, must ask the seller for the following information regarding the heating system or source:

- system or source type;

- age of system or source;

- name of servicing company;

- most recent service call date;

- annual consumption per system or source; and

- malfunctions within the past two years.

WASTE DISPOSAL SYSTEM

A licensee listing a single-family residential property, a multifamily property, a residential lot or a commercial property with a residential component served by a private waste disposal

system, and a licensee in such a transaction in which the property is not listed, must ask the seller for the following information:

- system type;
- tank size, type and location;
- malfunctions;
- tank installation date;
- leach field's location, malfunctions and installation date;
- most recent system servicing date; and
- contractor's name.

A licensee listing a residential property served by a municipal or "quasi-public" waste disposal system, and a licensee in a transaction in which the property is not listed, must ask the seller if he or she has experienced any system or line malfunction.

KNOWN HAZARDOUS MATERIALS

A listing licensee and a licensee in a transaction in which the property is not listed must disclose, in writing, whether the seller makes any representations regarding current or previously existing known hazardous materials on or in the real estate. Also, the licensee must give a written statement to the buyer encouraging the buyer to seek information from professionals regarding any specific hazardous material issue or concern.

A licensee listing a single-family residential property, a multifamily property or a commercial property with a residential component and a licensee in such a transaction in which the property is not listed must ask the seller whether he or she knows of "current or previously existing asbestos, radon, lead based paint, and underground storage tanks."

Regulatory chapter amended 2013.

[02-039-410 Me. Code R. §§ 14—18 \(2019\)](#)

Maine, Flood-related Disclosures

No relevant provisions were located.

Maine, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The statutory disclosure requirements apply to the transfer of residential real property by:

- sale;

- exchange;

- installment land contract;

-

lease with purchase option; or

- any other option to purchase.

As of July 1, 2006, this requirement is no longer restricted to situations in which "the transaction is without the assistance of a person licensed to practice real estate brokerage."

Section amended 2005.

[Me. Rev. Stat. tit. 33, § 172 \(2019\)](#)

Maine, Seller's Disclosure Form

Unless exempt pursuant to § 172, a residential real property seller must provide the purchaser with a property disclosure statement. However, research did not locate a standardized disclosure form mandated by Maine statutes or Maine regulations.

Section 172 amended 2005; § 173 amended 2019.

[Me. Rev. Stat. tit. 33, §§ 173, 172 \(2019\)](#)

Maine, Unusual Disclosure Requirements

RADON

A seller must disclose the presence or prior removal of hazardous materials on the property, including radon.

LEAD-BASED PAINT

A seller must disclose the presence or prior removal of hazardous materials on the property, including lead-based paint in homes built before 1978. In order to eliminate duplication, lead-based paint disclosures for pre-1978 homes must be in accordance with federal regulations. Therefore, § 1328 of title 22, which previously contained state disclosure statement requirements regarding lead-based paint, was repealed.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A seller must the presence or prior removal of hazardous materials or elements on the residential real property, including methamphetamine.

OTHER UNUSUAL REQUIREMENTS

Miscellaneous disclosures

A seller must disclose:

- the presence or prior removal of hazardous materials, including asbestos and underground oil storage tanks, on the property;
- information regarding means of accessing the property
- any known defects; and
- detailed information regarding the heating system.

Arsenic

A residential real property seller must provide to the purchaser information developed by the Director of the Bureau of Health regarding arsenic in private water supplies and in treated wood, unless the transaction is exempt under § 172.

Coastal shoreland disclosures

A person "transferring property on which a subsurface waste water disposal system is located within a shoreland area" must provide a written statement as to whether the system has malfunctioned during the 180 days before the transfer date.

A person purchasing property on which a subsurface waste water disposal system is located within a shoreland area, must prior to purchase have the system inspected by a certified person except that if it is impossible due to weather conditions to perform an inspection prior to the purchase, the inspection must be performed within nine months after transfer of the property. If the inspection finds that the system is malfunctioning, the system must be repaired or replaced within one year after transfer of the property. This inspection requirement is not applicable if:

- the system that has been installed pursuant to statutory and regulatory provisions within three years prior to the closing date of the property transfer;
- the seller of the shoreland property has a written inspection report for an inspection of the subsurface waste water disposal system that was performed within three years prior to the date of the property transfer and provides the inspection results to the purchaser; or
- the purchaser certifies to the local plumbing inspector that the purchaser will replace the subsurface waste water disposal system within one year of the property transfer.

Private transfer fees

A contract for the sale of real property subject to a private transfer fee obligation must disclose and describe the obligation.

Nonresidential property

Unless a transaction is exempt, the seller of nonresidential real property must provide to the purchaser a property disclosure statement containing information identifying the means of accessing the property by:

- a public way; and

- any means other than a public way, in which case the seller must disclose information about who is responsible for maintenance of the means of access, including any responsible road association, if known by the seller.

Statutory section 173 amended 2019; § 173-A added 2003; § 4216 amended 2019; § 163 enacted 2011; § 193 amended 2019.

[Me. Rev. Stat. tit. 33, §§ 173, 173-A, 163, 193; tit. 30-A, § 4216 \(2019\)](#)

Maryland

Maryland, Agent's Obligations Regarding Seller's Required Disclosures

A listing broker representing the seller of residential real property must inform the seller of his rights and obligations under § 10-702. A licensee representing a residential real property buyer, or, if the buyer is not represented, the owner's licensee who is dealing with the buyer, must inform the buyer of his rights and obligations under § 10-702. If a real estate licensee performs these duties, he or she:

- has no further duties to the parties under § 10-702; and
- is not liable to any party for a violation of the section.

However, Maryland regulations also provide that a licensee acting as a seller's agent should obtain a written residential property condition disclosure or disclaimer statement at the time the licensee obtains the listing. The seller's agent should provide the disclosure or disclaimer statement to the prospective purchaser or his agent upon notification that an offer is going to be made. Also, the buyer's agent should make "every effort" to ensure that the prospective buyer has a completed disclosure or disclaimer statement "in hand" before submitting a purchase offer.

Statutory section amended 2013; regulation amended 2017.

[Md. Code, Real Prop. § 10-702 \(2019\); Md. Code Regs. 09.11.07.02 \(2019\)](#)

Maryland, Flood-related Disclosures

Maryland's disclosure form requires a seller to disclose whether the property is located in a flood zone or wetland area.

Form amended 2018.

[Maryland Residential Property Disclosure and Disclaimer Statement \(July 31, 2018\)](#)

Maryland, Other Relevant Provisions

RELIANCE ON THIRD-PARTY REPORTS

An expert's report or opinion satisfies the disclosure requirements if the information is provided to the seller pursuant to a request for the information.

PSYCHOLOGICALLY IMPACTED PROPERTY

It is not a material fact that:

- an owner or occupant of the property was infected with HIV or AIDS; or
- a homicide, suicide, accidental death, natural death, or felony occurred on the property.

An owner and seller and their agents are immune from civil liability or criminal penalty for failure to disclose these facts.

Section 2-120 amended 1998; § 10-702 amended 2013.

[Md. Code, Real Prop. §§ 2-120; 10-702 \(2019\)](#)

Maryland, Seller's Disclosure Form

Unless exempt pursuant to § 10-702(a)(2), a seller of residential real property improved by one to four single-family units must complete and deliver to a purchaser:

- a written disclosure statement on the *Maryland Residential Property Disclosure Statement* form provided by the Real Estate Commission; or
- a written residential property disclaimer statement on the form provided by the Maryland Real Estate Commission.

The model disclosure and disclaimer statements provided by the commission must be used in all applicable residential real property transactions. The [Maryland Residential Property Disclosure and Disclaimer Statement](#) is available online.

Statutory section amended 2013; form amended 2018; regulation re-promulgated 1996.

[Md. Code, Real Prop. § 10-702 \(2019\); Maryland Residential Property Disclosure and Disclaimer Statement \(July 31, 2019\); Md. Code Regs. 09.11.07.01 \(2019\)](#)

Maryland, Unusual Disclosure Requirements

RADON

A seller must disclose the existence of hazardous materials, including radon, on the property.

LEAD-BASED PAINT

A seller must disclose the existence of hazardous materials, including lead-based paint, on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. However, except in Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties, a contract for the sale of residential real property must contain the statement set forth in § 14-117, which advises the buyer that the property may be located near a military installation that conducts flight operations, munitions testing or other military operations that may result in high noise levels. Local laws requiring a similar statement prevail over the state law.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Although no specifically relevant provision was located, the mandatory form generally requires the disclosure of hazardous or regulated materials.

OTHER UNUSUAL REQUIREMENTS

Miscellaneous disclosures

A seller must disclose:

- the existence of hazardous or regulated materials, including asbestos, underground storage tanks, licensed landfills, or other contamination on the property;
- whether the smoke alarms will provide an alarm during a power outage, whether they are more than 10 years old, and, if battery operated, whether they are "sealed, tamper resistant units incorporating a silence/hush button and use long-life batteries as required in all Maryland homes by 2018";
- any fire retardant treated plywood on the property;
- infestation of wood-destroying insects;
- whether the property is located in a conservation or wetland area, the Chesapeake Bay critical area, or a Designated Historic District;
- any other material defects, including latent defects, affecting the property's physical condition;
- whether water stands on the property "for more than 24 hours after a heavy rain"; and
- if the property uses a fossil fuel, whether a carbon monoxide alarm is installed.

A contract for the *initial* sale of residential real property to a person who intends to occupy or rent it for residential purposes must disclose the "estimated cost, as established by the appropriate water and sewer authority, of any deferred water and sewer charges for which the purchaser may become liable." In Prince George's County, the initial sale contract must disclose any "deferred private water and sewer assessments recorded by a covenant or declaration deferring costs for water and sewer improvements for which the purchaser may be liable." If a water and sewer authority has not established the charges for a project that benefits the residential property or if a jurisdiction has adopted a plan to benefit the residential property in the future, the sale contract must disclose that fact.

A contract for the *resale* of residential real property that is served by public water or wastewater facilities for which deferred water and sewer charges have been established by a recorded covenant or declaration must contain a notice in substantially the following form:

"NOTICE REQUIRED BY MARYLAND LAW REGARDING DEFERRED WATER AND SEWER CHARGES

This property is subject to a fee or assessment that purports to cover or defray the cost of installing or maintaining during construction all or part of the public water or wastewater facilities constructed by the developer. This fee or assessment is \$___, payable annually in (__month__) until (__date__) to (__name and address__) (hereafter called "lienholder").

There may be a right of prepayment or a discount for early prepayment, which may be ascertained by contacting the lienholder. This fee or assessment is a contractual obligation between the lienholder and each owner of this property, and is not in any way a fee or assessment imposed by the county in which the property is located."

Latent defects

The residential property disclaimer statement provides that an owner must disclose any latent defects of which the seller has actual knowledge.

A seller must disclose any latent defects of which he or she has actual knowledge and that "a purchaser would not reasonably be expected to ascertain by a careful visual inspection" and that would "pose a direct threat" to the purchaser's or an occupant's health or safety. The disclosure form emphasizes that an owner must disclose information about known latent defects even if he or she is selling the property "as is."

Special taxing district disclosures

Maryland law requires the following special taxing district disclosures:

- the seller of property in Frederick County that is subject to a special taxing district or community development authority tax or fee must provide a purchaser, within 20 days after entering into the contract, with the specific information regarding the tax or fee that is required by Md. Code Ann., Real Prop. § 10-704;
- the seller of residential property in Hartford County that is subject to a special taxing district tax must provide a purchaser, in writing, the specific information regarding the tax that is required by Md. Code Ann., Real Prop. § 10-706; and
- the seller of residential property in Cecil County that is subject to a special taxing district tax must provide a purchaser, in writing on or before entering into the sale contract, the specific information regarding the tax that is required by Md. Code Ann., Real Prop. § 10-706.

Anne Arundel County

If a specified violation of a local law in Anne Arundel County that relates to environmental protection or natural resource conservation has occurred, a contract for sale of real estate in Anne Arundel County must disclose certain information about the violation.

Conservation easements

The seller must give the buyer a copy of all conservation easements that encumber the property, and the sale contract must contain a conspicuous conservation-easement statement in the form set forth in § 10-705.

The seller of real property encumbered by one or more conservation easements, must deliver, on or before entering into a sale contract, the following to each buyer:

- the required notice statement, containing a statement substantially similar to that set forth in § 10-705(d); and
- a copy of all conservation easements that encumber the property.

Prince George's County

In Prince George's County, a residential real property sales contract that includes an agreement by the home builder to provide a community amenity must include a disclosure statement that:

- identifies the community amenity; and
- specifies when the community amenity will be completed according to the recorded recreational facilities agreement.

The disclosure agreement must be:

- dated and signed by the purchaser and the home builder; and

- included in or attached to the sales contract.

This requirement applies only prospectively.

Flood-related disclosures

Maryland's disclosure form requires a seller to disclose whether the property is located in a flood zone or wetland area.

Energy-efficiency

Effective October 1, 2018, for developments that contain 11 or more new homes built by the same home builder, a contract for the initial sale of a new home must contain an acknowledgment that the home builder provided the purchaser with written information about any energy-efficient options that are available. The home builder must provide the acknowledgment before construction of the home is completed, and the document must include a statement that tax credits related to the energy-efficient options may be available.

Statutory sections 10-705 amended 2009; §§ 10-702, 10-704, and 10-707 amended 2013; § 10-706 amended 2015; §§ 10-710 and 14-117 amended 2018; form amended 2018.

[Md. Code, Real Prop. §§ 10-702\(d\), -704, -705, -706, -707, -710; 14-117 \(2019\); Maryland Residential Property Disclosure and Disclaimer Statement \(July 31, 2018\)](#)

Massachusetts

Massachusetts, Agent's Obligations Regarding Seller's Required Disclosures

Generally, a designated broker or salesperson has "an affirmative obligation to disclose known material defects in real property."

A seller's agent must:

- disclose to a prospective buyer any known information regarding the presence of paint, plaster, or other structural materials containing dangerous levels of lead;
- inform the buyer of the availability of inspections for dangerous levels of lead;
- verbally inform the buyer of the possible presence of dangerous levels of lead and the applicable statutory provisions, if the agent has provided the buyer with the required information and materials; and
- obtain the buyer's certification that he has been so notified.

If any agent involved in a sale has provided the prospective purchaser with the required information and materials, the agent must verbally inform the prospective purchaser of the possible presence of dangerous levels of lead and the provisions of the lead law and regulations, including the purchaser's responsibility to bring the property into compliance with applicable Massachusetts regulations if a child under six years will reside on the property. The agent must obtain the prospective purchaser's written acknowledgement that he or she has received the lead notification before signing the purchase agreement. If the prospective purchaser refuses to sign a written acknowledgement, the agent may attach to the contract a statement noting that the agent notified the prospective purchaser but he or she refused to sign an acknowledgement.

Statutory section amended 1993; regulation 460.720 amended 2017; history of r. 3.00 unknown.

[Mass. Gen. Laws ch. 111, § 197A \(2019\)](#); [105 Mass. Code Regs. 460.720 \(2019\)](#); [254 Mass. Code Regs. 3.00\(13\)\(c\) \(2019\)](#)

Massachusetts, Flood-related Disclosures

No relevant provisions were located.

Massachusetts, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact or suspicion that real property may be psychologically impacted need not be disclosed in a real estate transaction. "Psychologically impacted" means an impact that is the result of facts or suspicions that the property:

- is occupied by a person who has or has been suspected of having HIV or AIDS or any other disease that is highly unlikely to be transmitted through occupying a dwelling;
- was the site of a felony, suicide or homicide; and
- has been the site of an alleged parapsychological or supernatural phenomenon.

No cause of action arises against a seller or his agent for failure to disclose to a buyer that the real property is psychologically impacted. However, a seller or licensee may not misrepresent a fact or make a false statement.

Section enacted 1998.

[Mass. Gen. Laws ch. 93, § 114 \(2019\)](#)

Massachusetts, Seller's Disclosure Form

Research located no Massachusetts statutes or regulations requiring a real estate seller to disclose general information about property to a prospective buyer. However, see "Unusual Disclosure Requirements" for specific disclosure requirements.

[Massachusetts, Unusual Disclosure Requirements](#)

RADON

No relevant provisions were located.

LEAD-BASED PAINT

A property seller must notify a prospective buyer about the hazards of lead in paint, plaster or other structural material and the requirements for its abatement or containment. Pursuant to Massachusetts statutes, a seller must:

- provide a copy of the state's form and information brochure regarding the hazards of lead to the prospective buyer;
- disclose to the buyer any known information regarding the presence of dangerous levels of lead; and
- inform the purchaser of the availability of inspections for dangerous levels of lead.

Massachusetts regulations also require a seller of residential premises constructed before 1978 to:

-

provide information regarding whether the residential premises or any dwelling units have been certified in compliance with Mass. Regs. Code tit. 105, §§ 460.750(A)(1), 460.760(D)(2), or 460.105(D)(2), and to include a copy of any Letter of Full Compliance or Letter of Interim Control that was issued;

- disclose whether the premises have been inspected for lead violations or whether there has been a risk assessment, and to provide copies of any lead inspection and risk assessment reports; and
- disclose incidents of any past or present reported cases of lead poisoning in occupants, without disclosing the individual's name.

The seller must also inform the prospective purchaser of residential premises constructed before 1978 and any real estate agent involved in the sale about the availability of lead inspections. If the prospective purchaser chooses to have an inspection performed, the seller must give the purchaser at least ten days for the inspection and the prospective purchaser must provide a copy of the inspection report to the seller.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, some environmental disclosures are required. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

In transactions entered into after April 1, 2003, a seller or licensee is not liable for failing to disclose to a buyer that real property has been insulated with urea formaldehyde foam insulation.

Statutory section 12J enacted 2002; § 197A amended 1993; regulation amended 2017.

[Mass. Gen. Laws ch. 111, § 197A; ch. 255, § 12J \(2019\); 105 Mass. Code Regs. 460.720 \(2019\)](#)

Michigan

Michigan, Agent's Obligations Regarding Seller's Required Disclosures

The seller must deliver to his agent or to the prospective buyer or the buyer's agent the required written statement. If the written statement is delivered to the transferor's agent, the agent must provide a copy to the prospective transferee or his agent.

An agent of a transferor is not liable for any violation of the Seller Disclosure Act by a transferor unless any agent knowingly acts in concert with a transferor to violate the Act.

Section enacted 1993.

[Mich. Comp. Laws §§ 565.954, .965 \(2020\)](#)

Michigan, Flood-related Disclosures

Michigan's statutory disclosure form requires the following flood-related disclosures:

- whether the seller has flood insurance on the property;
- whether the seller is aware of flooding or drainage problems; and
- whether the seller is aware of any "major damage" from floods.

Section 565.957 amended 2005.

[Mich. Comp. Laws § 565.957 \(2020\)](#)

Michigan, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The seller disclosure requirements apply to the transfer of real estate consisting of one to four residential dwelling units, whether by:

- sale;
- exchange;
- installment land contract;

- lease with a purchase option;
- other purchase option;
- ground lease with proposed improvements; or
- transfer of stock or interest in a residential cooperative.

RELIANCE ON THIRD-PARTY REPORTS

The delivery of any required information by a public agency complies with the statutory disclosure requirements and relieves the transferor of any further duty with respect to that information, unless the transferor knows of a defect that contradicts the agency's information. Similarly, the delivery of a report prepared by a licensed professional engineer, surveyor, geologist, pest control operator, contractor, or other expert, dealing with matters within his expertise, complies with the exemption described above, unless the transferor knows of a known defect that contradicts the expert's information.

Sections enacted 1993.

[Mich. Comp. Laws §§ 565.952, .955 \(2020\)](#)

Michigan, Seller's Disclosure Form

Unless exempt pursuant to § 565.953, the transferor of any real property described in § 565.952 must deliver a written disclosure statement on the form provided in § 565.957. However, a city or county may require additional disclosures or disclosure on a different form.

Sections 565.953 and 565.954 enacted 1993; § 565.957 amended 2005; § 565.959 enacted 1993.

[Mich. Comp. Laws §§ 565.954, .957, .959 \(2020\)](#); *see also* [Mich. Comp. Laws § 565.953 \(2020\)](#)

Michigan, Unusual Disclosure Requirements

RADON

A seller must disclose whether he or she is aware of any substance that may be an environmental hazard, including radon gas.

LEAD-BASED PAINT

A seller must disclose whether he or she is aware of any substance that may be an environmental hazard, including lead-based paint.

LOCAL AIRPORTS

A seller must disclose the property's proximity to an airport.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures, including proximity to a landfill. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required on form

A seller must disclose:

- the property's proximity to any farm or farm operations;
- the property's proximity to a shooting range;
- whether urea formaldehyde foam insulation is installed;
- any substances, materials, or products that may be an environmental hazard, including asbestos, formaldehyde, fuel or chemical storage tanks, or contaminated soil on the property;

- any major damage to the property from fire, wind, floods, or landslides; and
- any underground storage tanks.

The disclosure form must also include a notice alerting the buyer that:

- he or she should obtain professional advice and inspections of the property and that the inspections should "take indoor air and water quality into account, as well as any evidence of unusually high levels of potential allergens including, but not limited to, household mold, mildew and bacteria";
- certain sex offender information is available from local law enforcement agencies or the sheriff's department; and
- he or she should not assume that the future property tax bills will be in the same amount as the seller's tax bills.

Owner-builder notice

An owner-builder who sells a residential structure within two years after the date an occupancy permit was issued, must note in an owner-builder notice that the owner built the residential structure. The owner-builder notice must:

-

be supplied at the time the residential structure is offered;

- be on a separate sheet of paper;
- be in at least a 12-point font;
- state that an owner-builder, not a licensed builder, built the residential structure; and
- be signed and dated by the owner-builder.

Section 565.957 amended 2005; § 445.887 enacted 2008.

[Mich. Comp. Laws §§ 445.887; 565.957 \(2020\)](#)

Minnesota

Minnesota, Agent's Obligations Regarding Seller's Required Disclosures

A seller may provide the required written disclosure to a real estate licensee representing or assisting the buyer. If the written disclosure is provided to the buyer's real estate licensee, the licensee must provide a copy of the disclosure to the prospective buyer.

A licensee must disclose to a prospective purchaser all known material facts that could "adversely and significantly" affect:

- "an ordinary purchaser's use or enjoyment of the property"; or

- any intended use of the property of which the licensee is aware.

Matters that are *not* deemed to be material facts include:

- the fact or suspicion that the property is or was occupied by a person suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;
- the fact or suspicion that the property was the site of a suicide, accidental death, natural death, or perceived paranormal activity;
- the fact or suspicion that the property is located in a neighborhood containing an "adult family home, community-based residential facility, or nursing home";
- information regarding registered sex offenders, provided the licensee provides a timely written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement or the Department of Corrections;
- information regarding airport zoning regulations, provided the licensee provides a timely written notice that a copy of the airport zoning regulations may be reviewed or obtained at the county recorder's office; and
-

except for information a licensee knows contradicts a third-party report, information relating to the property's physical condition or any other information relating to the real estate transaction, if a qualified third party has prepared a written report disclosing the information and the report has been provided to "the person."

A seller may provide the required written radon disclosure to a real estate licensee representing or assisting a prospective buyer. The written disclosure provided to a real estate licensee is "considered to have been provided to the prospective buyer," and the licensee must provide a copy to the prospective buyer.

Additionally, "[a] licensee shall disclose to a prospective purchaser all material facts of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware." [Minn. Stat. § 82.68, subd. 3 \(2019\)](#).

Section 513.55 amended 2004; § 144.496 enacted 2013; § 82.68 amended 2014.

[Minn. Stat. §§ 82.68, subd. 3; 144.496; 513.55 \(2019\)](#)

Minnesota, Flood-related Disclosures

The state's previously available suggested disclosure form required the following flood-related disclosures:

- whether there has been any damage to the property by flood; and
- whether the basement has now or previously had drain-tile problems or flooding.

A suggested form published by the Minnesota State Bar Association contains similar disclosures.

Sample form revised 2007; M.S.B.A. form amended 2017.

Seller's Property Disclosure Statement (2007) (no longer available on Attorney General website); [Minn. State Bar Assoc., *Condition of the Property; M.S.B.A. Real Property Form No. 15* \(2017\)](#)

Minnesota, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The seller disclosure requirements apply to the transfer of any residential real estate, whether by:

- sale;
- exchange;
- deed;
- contract for deed;
- lease with purchase option; or
- any other option.

Any statutory limitations on disclosure contained in § 513.56, subds. 1 and 2, modify any common law duties regarding disclosure of material facts.

PSYCHOLOGICALLY IMPACTED PROPERTY

A seller need not disclose the fact that residential property:

- is or was occupied by a person who is or was suspected of being infected with HIV or diagnosed with AIDS;
- was the location of a suicide, death, or “perceived paranormal activity”; or
- is located in a neighborhood with an adult family home, community-based residential facility, or nursing home.

A seller also need not disclose information regarding any sex offenders, if the seller provides a timely written notice that information about the predatory offender registry may be obtained by contacting the local law enforcement agency or the corrections department.

RELIANCE ON THIRD-PARTY REPORTS

A seller need not disclose information relating to property if a qualified third party has prepared a written report that discloses the information and the report is delivered to the buyer. A "qualified third party" includes:

- a federal, state, or local governmental agency; or
-

a person whom the seller or buyer reasonably believes has the expertise necessary for the inspection or investigation.

However, a seller must disclose to the buyer known material facts that contradict any information included in the report.

Section 513.53 enacted 2002; § 513.56 amended 2007.

[Minn. Stat. §§ 513.53, .56 \(2019\)](#)

Minnesota, Seller's Disclosure Form

Unless exempt pursuant to § 513.54, the seller must make a written disclosure to the prospective buyer, which disclosure must include all known material facts that could significantly adversely affect:

- the buyer's use and enjoyment of the property; or
- any known intended use of the property.

No mandatory form was located in the state's statutes or regulations. The previously suggested form, *Sample Form C: Seller's Property Disclosure Statement*, is no longer available online from the Minnesota Attorney General's website. Instead, the attorney general states that real estate agents can provide the seller with the form for reporting a home's condition.

The state's [Radon Disclosure](#) form is available online.

Section 513.55 amended 2004; § 513.54 enacted 2002.

[Minn. Stat. §§ 513.55, .54 \(2019\); Minn. Office of Att'y Gen., *Home Seller's Handbook*, at 14 \(2018\)](#)

Minnesota, Unusual Disclosure Requirements

RADON

A residential real property seller must comply with the radon disclosure requirements set forth in § 144.496. Before signing an agreement to sell or transfer residential real property, the seller must disclose in writing to the buyer the seller's knowledge of radon concentrations in the dwelling. The disclosure must include:

- whether radon tests have occurred on the property;
- the most current records and reports pertaining to radon concentrations in the dwelling;
- a description of any "radon concentrations, mitigation, or remediation";
- information regarding any radon mitigation system installed in the dwelling; and
- a radon warning statement.

The seller must also provide the buyer with a copy of the Minnesota Department of Health publication *Radon in Real Estate Transactions*.

Although certain specified transactions are exempt, the seller's radon disclosure requirements generally apply to the transfer of a residential real estate, whether by "sale, exchange, deed, contract for deed, lease with an option to purchase, or any other option."

The [Radon Disclosure](#) form is available online.

LEAD-BASED PAINT

The attorney general states, "If your home was built before 1978, you must provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in your possession and notify the buyer of any known lead-based paint hazards."

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. However, a seller need not disclose information regarding airport zoning regulations if the seller provides timely written notice that the buyer may obtain or review a copy of the airport zoning regulations at the county recorder's office for the zoned area.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the suggested form did require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. The recommended form published by the Minnesota State Bar Association requires disclosure of any "soil or settling problems."

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Before signing a real property sale agreement, the seller must disclose in writing to the buyer whether, to the seller's knowledge, methamphetamine production has occurred on the property. If so, the disclosure must include a statement to the buyer informing him or her:

- whether an order has been issued on the property;

- whether any orders issued against the property have been vacated; or

- if no order has been issued against the property and the seller is aware that methamphetamine production has occurred on the property, the status of its removal and remediation.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures on suggested form

The suggested form that was previously available online provided that the seller disclose whether:

-

the property has been damaged by wind, fire, flood, hail or other causes;

- the seller has or had any pets, including type and number; and
- any wells are located on the real property.

The recommended form published by the Minnesota State Bar Association requires similar disclosures.

Wells

Minnesota's well disclosure provisions require that before signing an agreement to sell real property, the seller must disclose in writing to the buyer "information about the status and location of all known wells on the property," by delivering to the buyer:

- a statement that the seller does not know of any wells on the property; or
- a disclosure statement indicating the legal description, county, and a map showing the location of each well to the extent practicable.

The seller must indicate, for each well, whether it is in use, not in use, or sealed. At closing, the disclosure statement information, the buyer's name and address, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller.

The seller need not provide a well disclosure certificate if:

- the seller does not know of any wells on the property; and
- the deed or other conveyance instrument contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

This requirement does not apply to the sale of real property that:

- consists solely of the sale of severed mineral interests; or
- consists of an individual condominium unit.

Additionally, this requirement does not apply to temporary borings or unsuccessful wells that have been sealed by a licensed contractor in compliance with the law.

Subsurface sewage treatment systems

Before signing a sales agreement, a seller must disclose in writing to the buyer "information on how sewage generated at the property is managed." The seller must deliver a statement to the buyer that either:

- "the sewage goes to a facility permitted by the agency"; or
- "the sewage does not go to a permitted facility, and is therefore subject to applicable requirements."

If sewage is not sent to a permitted facility, the disclosure must include a description of the system used, including:

- the property's legal description;
- the county in which the property is located; and
- a "map drawn from available information showing the location of the system on the property to the extent practicable."

If the seller knows that an abandoned "subsurface sewage treatment system" exists on the property:

- the disclosure must include a map showing its location; and
- the seller must disclose what the seller knows "relative to the compliance status of the subsurface sewage treatment system, and whether, to the best of the seller's knowledge, a straight-pipe system exists."

A seller who possesses an inspection report by a licensed inspection business or certified local government inspector in accordance with § 115.55, subd. 5 or 5a, must attach a copy of the report to the disclosure statement.

Statutory section 513.55 amended 2004; § 513.56 amended 2007; § 152.0275 enacted 2005; § 1031.235 amended 2019; §§ 144.496 and 513.61 enacted 2013; § 115.55 amended 2015; sample form revised 2007; M.S.B.A. form amended 2017.

[Minn. Stat. §§ 513.55, .56, .61; 1031.235, subd. 1; 115.55, subd. 6; 144.496; 152.0275, subd. 2\(m\) \(2019\); Seller's Property Disclosure Statement \(2007\) \(no longer available on attorney general website\); Minn. State Bar Assoc., *Condition of the Property; M.S.B.A. Real Property Form No. 15* \(2017\); Minn. Office of Att'y Gen., *Home Seller's Handbook*, at 14, 15 \(2018\)](#)

Mississippi

Mississippi, Agent's Obligations Regarding Seller's Required Disclosures

If more than one broker is acting as an agent in a transaction, the broker who has obtained the offer must deliver the required disclosure to the buyer, unless the seller has given other written instructions for delivery. If a broker responsible for delivering the disclosures cannot obtain the required disclosure document and does not have written assurance from the buyer that he has received the disclosure, the broker must advise the buyer in writing of his rights to the disclosure and maintain a record of the actions he took to effect compliance. Only a duly licensed broker or salesperson acting as an escrow agent for the transfer of real property is deemed to be the buyer's or seller's agent for disclosure purposes, unless another person is empowered by written agreement to so act.

A real estate licensee has no duty to a seller or purchaser to conduct an independent investigation of a property's size or area, or to verify independently the accuracy of any related third-party information.

Sections 89-1-519 and 89-1-521 enacted 1993; § 73-35-4.1 enacted 2013.

Miss. Code §§ 73-35-4.1; 89-1-519, -521 (LexisNexis 2018)

Mississippi, Flood-related Disclosures

The mandatory form which becomes effective April 1, 2017, includes disclosure by the owner of the following flood-related items:

- whether during the seller's ownership, has there been DAMAGE to any portion of the physical structure resulting from fire, windstorm, hail, tornados, hurricane or any

other natural disaster and, if so, the cause of the damage, in detail, and supply the dates of the losses;

- whether any portion of the Property (including a part of the site) is currently located in or near a FEMA Designated Flood Hazard Zone, and if so the source of the information and the current Map Number used to determine the Flood Zone;
- whether any portion of the Property (site) is currently designated as being located within a WETLANDS area and is subject to specific restrictive uses;
- whether the Property has ever had standing water in the front, rear or side yards for more than 48 hours following a heavy rain, and if so, any unusual circumstances causing the problem
- whether flood Insurance is currently required on the Property, and if so, the amount of the premium currently being paid and when the premium was last adjusted;
- whether, for any reason, past or present, any portion of the interior of the property ever suffered water damage or moisture-related damage which was "caused by flooding, lot drainage, moisture seepage, condensation, sewer overflow, sewer backup, leaking or broken water pipes (during or after construction) pipe fittings, plumbing fixtures, leaking appliances, fixtures or equipment" and if so, the nature of the problems and what steps were taken to remedy the problems.

Form amended 2016.

[Mississippi Property Condition Disclosure Statement \(Apr. 1, 2017\)](#)

Mississippi, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 89-1 applies to transfers of real property on which a dwelling is located, or a residential stock cooperative improved with one to four dwellings, by:

- sale;
- exchange;
- installment land sale contract;
- lease with a purchase option;
- any other purchase option; or
- ground lease coupled with improvements,

provided the "execution of such transfers is by, or with the aid of," a licensed broker or salesperson.

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact or suspicion that real property is one of the following does not constitute a material fact that must be disclosed in a real estate transaction:

-

the site of a natural death, suicide, homicide or felony crime, except for illegal drug activity that affects the physical condition of the property, its environment or improvements;

- the site of an act or occurrence that did not effect the property's physical condition, environment or improvements; or
- owned or occupied by a person affected by any disease not transmitted through common occupancy of the real estate, including HIV and AIDS.

RELIANCE ON THIRD-PARTY REPORTS

The delivery of any information by a public agency or other person is deemed to comply with the requirements of chapter 89-1 and relieves the seller and any listing or selling agent of any further duty with respect to that information. Also, the delivery of a report prepared by "a licensed engineer, land surveyor, geologist, structural pest control operator, contractor or other expert," dealing with matters within the scope of his expertise, complies with the disclosure requirements provided the information is given to the prospective buyer pursuant to a written or oral request.

Section 89-1-501 amended 2005; § 89-1-527 enacted 2005; § 89-1-505 enacted 1993.

Miss. Code §§ 89-1-501, -505, -527 (LexisNexis 2019)

Mississippi, Seller's Disclosure Form

Subject to the exclusions set forth at § 89-1-501(2), the seller of real property subject to chapter 89-1 must deliver to a prospective buyer a written property condition disclosure statement. The seller must make the required disclosures on a form, the "structure and composition of which" must be as determined by the Mississippi Real Estate Commission. A copy of the required statement is available online.

If the seller is exempted from delivering the disclosure statement, the seller must complete and deliver a [*Seller's Statement of Exclusion from Completing the Property Condition Disclosure Statement \(PCDS\)*](#).

Section 89-1-501 amended 2005; § 89-1-503 amended 2002, § 89-1-509 amended 1999; forms revised 2016, effective April 1, 2017.

Miss. Code §§ 89-1-503, -509 (LexisNexis 2019); *see also* Miss. Code § 89-1-501 (LexisNexis 2019); [*Mississippi Property Condition Disclosure Statement \(Apr. 1, 2017\)*](#)

Mississippi, Unusual Disclosure Requirements

RADON

The 2017 mandatory form requires a seller to disclose "any past or present hazardous conditions, substances or materials on the Property," including, among others, radon gas, and any attempts to mitigate any such hazardous condition.

LEAD-BASED PAINT

The 2017 mandatory form requires a seller to disclose "any past or present hazardous conditions, substances or materials on the Property," including, among others, lead-based paint, and any attempts to mitigate any such hazardous condition.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

The 2008 disclosure form required a seller to disclose "problems that may exist by virtue of prior usages," including, among others, methamphetamine labs. The 2017 form requires disclosure of "any past or present contaminations which have resulted from the storing or the manufacturing of methamphetamine."

Also, more generally, the fact or suspicion that real property is the site of a natural death, suicide, homicide or felony crime does not constitute a material fact that must be disclosed in a real estate transaction, *except* for illegal drug activity that affects the physical condition of the property, its environment, or improvements.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The 2017 mandatory form requires a seller to disclose and explain:

-

"any past or present hazardous conditions, substances or materials on the Property such as asbestos or asbestos components, lead-based paint, urea-formaldehyde insulation, the presence of Chinese dry-wall, methane gas, radon gas, underground storage tanks and lines or any past industrial uses occurring on the premises" and any attempts to mitigate any such hazardous conditions;

- "any settlement/heaving of soils, any collapsible or expansive soils or poorly compacted fill on the Property";
- "any tests to determine the composition/compaction of the soil or any 'expandable soils' being present on the Property";
- damage from fire, windstorm, hail, tornadoes, hurricane or other disaster;
- whether the property is located on "Leasehold of Sixteenth Section" land, and if so, the terms of the lease including payments and expiration;
- any right-of-way, easements, eminent domain proceedings or similar matters;
- whether, "FOR ANY REASON," any portion of the residence has suffered water damage or moisture-related damage;
- any current or past "inspections by qualified experts or orders issued on the property by any governmental authority requiring the remediation of MOLD or any other public health nuisance on the Property" and any mitigation attempts; and

- "hidden defects or needed repairs about which the purchaser should be informed PRIOR to their purchase."

Assessments

The form requires disclosure of "any HOA, Public (municipal) special improvement district (PID) or other assessments that are presently owing or that have been approved but not yet levied against the Property" along with the identity of the assessing entity and the amount of taxes/assessments.

Section amended 2005; form amended 2016, effective April 1, 2017.

Miss. Code § 89-1-501 (LexisNexis 2019); [Mississippi Property Condition Disclosure Statement \(Apr. 1, 2017\)](#)

Missouri

Missouri, Agent's Obligations Regarding Seller's Required Disclosures

No specifically relevant provisions were located.

Generally, a licensee is immune from liability for statements made by certain expert professionals unless:

- the licensee selected and engaged the expert;
- a person the licensee or broker employed made the statement; or

- the licensee knew that the statement was false or acted in reckless disregard of the truth.

Ordering a report or an inspection alone does not constitute selecting or engaging a person in this context.

The Missouri Real Estate Commission notes, "If a seller's disclosure statement is provided, the licensee working with the seller is not required to independently verify the accuracy or completeness of the information provided by the seller." However, a licensee working with the seller must disclose to a customer "all adverse material facts actually known or that should have been known by the licensee."

Section 339.190 amended 2011; § 339.730 amended 1998; history of FAQs unknown.

[Mo. Rev. Stat. § 339.190, .730 \(2019\); Mo. Real Estate Comm'n, FAQs-Statute/Regulation Related Questions, ¶ 18 \(last visited May 13, 2020\)](#)

Missouri, Flood-related Disclosures

No relevant provisions were located.

Missouri, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact real property may be "psychologically impacted" or in close proximity to "psychologically impacted" property is not a material or substantial fact that must be disclosed in a sale, exchange or other transfer of real estate. "Psychologically impacted" property includes real property:

- in which an occupant is or was infected with HIV or AIDS, or any other disease highly unlikely to be transmitted through occupancy of a dwelling; or

- that was the site of a homicide, felony, or suicide.

Section enacted 1991.

[Mo. Rev. Stat. § 442.600 \(2019\)](#)

Missouri, Seller's Disclosure Form

Research located no Missouri statutes or regulations requiring a real estate seller to disclose general information about real property to a prospective buyer. The Missouri Real Estate Commission notes that "Missouri does not have a mandatory seller's disclosure statement." However, a few specific requirements are described in "Unusual Disclosure Requirements" below.

History of FAQs unknown.

[Mo. Real Estate Comm'n, FAQs-Statute/Regulation Related Questions, ¶ 18 \(last visited May 13, 2020\)](#)

Missouri, Unusual Disclosure Requirements

RADON

Research located no provision requiring a seller to disclose the existence of radon on the property.

LEAD-BASED PAINT

Research located no provision requiring a seller to disclose the existence of lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, a seller may not knowingly sell property that contains a permitted or unpermitted solid waste disposal site or demolition landfill, without:

- disclosing the existence and location of the site to the buyer early in the negotiation process; and
- notifying the buyer that he may be assuming liability to the state for any remedial action at the site.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A seller must disclose to a buyer in writing the fact that:

-

methamphetamine was produced on the premises, regardless of whether the persons involved in the production were convicted for their acts;

- the premises was the residence of a person convicted of any of several crimes related to methamphetamine; and
- the premises was the storage site or laboratory for any of the substances for which a person was convicted of any of several crimes related to methamphetamine.

OTHER UNUSUAL REQUIREMENTS

Radioactive material or other hazardous material

Effective August 28, 2018, if any premises to be rented, leased, sold, transferred, or conveyed is or was contaminated with radioactive material or other hazardous material, the transferor must disclose that fact in writing to a prospective lessee, purchaser, or transferee, if the transferor has knowledge of the contamination. Failure to make this disclosure is a class A misdemeanor. In this context, "knowledge" requires the transferor's receipt of "a report stating affirmatively that the premises is or was previously contaminated with radioactive material or other hazardous material."

Section 442.606 enacted 2001; § 260.213 enacted 1990; § 442.055 enacted 2018.

[Mo. Rev. Stat. §§ 260.213; 442.606, .055 \(2019\)](#)

Montana

Montana, Agent's Obligations Regarding Seller's Required Disclosures

No generally relevant provisions were located.

It is unprofessional conduct for a licensee to violate:

- as a seller's agent, the state's radon disclosure requirements; or
- the federal Residential Lead-Based Paint Disclosure Program.

A seller agent must disclose "all relevant and material information that concerns the real estate transaction and that is known to the seller agent and not known or discoverable by the seller," unless the information is subject to confidentiality arising from a prior or existing agency relationship. Similarly, a buyer agent must disclose "all relevant and material information that concerns the real estate transaction and that is known to the buyer's agent and not known or discoverable by the buyer," unless the information is subject to confidentiality arising from a prior or existing agency relationship.

A seller agent or dual agent must disclose to a buyer or the buyer's agent any "adverse material facts" that concern the property and that are known to the seller or dual agent, but he or she need not inspect the property or verify any statements made by the seller. No disclosure to a buyer is required when the seller agent or dual agent has no personal knowledge of the veracity of information regarding adverse material facts that concern the property.

An "adverse material fact" is "a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property." This may include facts that materially affect the property's value or structural integrity, presents a health risk to occupants, or affects the buyer's ability or intent to perform his contractual obligations. [Mont. Code Ann. § 37-51-102\(2\)\(a\) \(2019\)](#).

Additionally, a licensee must "endeavor to ascertain all pertinent facts concerning each property in any transaction in which the licensee acts so that the licensee may fulfill the obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts."

Section 37-51-313 amended 2017; § 37-51-102 amended 2019; regulation 24.210.641 amended 2018.

[Mont. Code § 37-51-313 \(2019\); Mont. Admin. R. 24.210.641\(5\)\(x\), \(y\) \(2019\)](#)

Montana, Flood-related Disclosures

No relevant provisions were located.

Montana, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A seller agent, buyer agent, dual agent, and statutory broker are obligated to disclose adverse material facts to the other party in a negotiation. An adverse material fact is defined as "a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property." However, the term does *not* include "the fact that an occupant of the property has or has had a communicable disease or that the property was the site of a suicide or felony."

Section 37-51-102 amended 2019, § 37-51-313 amended 2017.

[Mont. Code §§ 37-51-102\(2\), -313 \(2019\)](#)

Montana, Seller's Disclosure Form

Except for the radon, mold and drug lab disclosures discussed in "Unusual Disclosure Requirements" below, research located no Montana statutes or regulations requiring a real estate seller to disclose property information to a prospective buyer.

Montana, Unusual Disclosure Requirements

RADON

A seller or his agent must provide a radon disclosure statement on at least one document executed before or contemporaneously with an offer for the purchase of inhabitable real property. The statement must contain the following:

RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT

EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT.

If a seller knows that a building has been tested for radon, he must provide to the buyer a copy of the results of that test and evidence of any treatment.

LEAD-BASED PAINT

Research located no *state* law requiring a seller to disclose the existence of lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

An owner of inhabitable property that the owner knows was used as a methamphetamine drug lab must notify in writing any subsequent occupant or purchaser of that fact if a certified contractor has not remediated the property to the standards set forth by statute.

OTHER UNUSUAL REQUIREMENTS

Mold

The Montana Mold Disclosure Act provides that:

- a mold disclosure statement may be provided on at least one document, form, or application executed before or with an offer on inhabitable real property;
- if a seller or his or her agent knows that a building has mold present, the seller or agent, before entering into a purchase contract, must disclose the presence of mold to the buyer; and
- if a seller knows that a building has been tested for mold, the seller, before entering into a purchase contract, must advise the buyer that testing has occurred and must provide to the buyer a copy of the test results, if available, and evidence of any mitigation or treatment.

Furnishing test results and evidence of mitigation or treatment is not a promise, warranty, or representation that the test results are accurate or that the mitigation or treatment is effective. A seller or agent who provides the mold disclosure statement and complies with the act's provisions is not liable in any action based on the presence of or propensity for mold in the building.

Newly constructed residences

Certain disclosures apply to the sale of a newly constructed residence "that has not been previously occupied and where the seller is the builder or a developer who has built or had the residence built

for the purpose of resale." Before the sale of a new residence, the builder or developer must provide a buyer a statement of all inspections and tests that the general contractor performed or had performed before, during, or after completion of the residence's construction.

Water rights

Except in the case of a transfer of real property served by a public service water supply, a realty transfer certificate must contain a water rights disclosure in which the transferor acknowledges, at or before the closing or transfer, whether any water rights are associated with the property and whether they will transfer with the real property.

Section 70-16-703 enacted 2003; § 75-3-606 amended 1995; § 75-10-1305 enacted 2005; § 28-2-2202 enacted 2009; § 85-3-424 amended 2017.

[Mont. Code §§ 28-2-2202; 70-16-703; 75-3-606, -10-1305; 85-2-424 \(2019\)](#)

Nebraska

Nebraska, Agent's Obligations Regarding Seller's Required Disclosures

An agent may provide a copy of the disclosure statement to any other person connected with a sale of real property. The licensee need not verify the accuracy or completeness of the disclosure statement, but he or she must disclose any error, inaccuracy or omission of which he or she knows, and his or her disclosure must be attached to the Seller Property Condition Disclosure Statement.

A seller's agent must assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the buyer or the buyer's agent on or before the effective date of a purchase agreement on residential real property. A buyer's agent must assure that a copy of the statement is delivered to the buyer on or before the effective date of any purchase agreement and obtain a signed receipt from the buyer.

The Commission may find a licensee to be negligent, incompetent or unworthy if he or she fails to disclose, in writing, to a buyer, at or before the time the buyer signs a purchase offer, a known adverse material fact regarding the real estate's condition. An "adverse material fact" is one that significantly affects the property's desirability or value and that the buyer does not know or cannot reasonably ascertain.

Effective September 6, 2015, a real estate broker or salesperson (or, if none, the owner) must obtain an acknowledgment from any purchaser of any real estate located within a sanitary and improvement district that the purchaser understands the following:

- that the property is located within a sanitary and improvement district;
- that sanitary and improvement districts are located outside any municipality's corporate limits;
- that residents of sanitary and improvement districts are not eligible to vote in municipal elections; and
- that owners of property located within sanitary and improvement districts have limited access to services provided by nearby municipalities unless a municipality annexes the property.

This acknowledgment may be obtained separately from the disclosure required by Neb. Rev. Stat. § 76-2,120.

Statutory sections amended 2015; regulations amended effective 1973.

[Neb. Rev. Stat. §§ 31-727.03\(3\), 76-2,120\(4\) \(2019\); 299 Neb. Admin. Code §§ 5-003.20, .23, .24, .25 \(2019\)](#)

Nebraska, Flood-related Disclosures

The state Seller Property Condition Disclosure Statement requires the following flood-related disclosures:

- whether there has been any damage from floods;
- whether the real property is in a flood plain or a floodway; and
- whether there are "any flooding, drainage, or grading problems in connection to the real property."

Form effective January 1, 2017.

[302 Neb. Admin. Code § 1-001 \(2019\)](#)

Nebraska, Other Relevant Provisions

No other relevant provisions were located.

Nebraska, Seller's Disclosure Form

Unless excluded pursuant to § 76-2,120(6), each seller of residential real property located in Nebraska must provide the purchaser with a written statement disclosing the property's condition. The statement must be executed by the seller and be substantially in the form of the [Seller Property Condition Disclosure Statement](#) set forth in the Nebraska regulations.

Statutory section amended 2015; regulation amended effective Jan. 1, 2017.

[Neb. Rev. Stat. Ann. § 76-2,120\(2\), \(6\) \(2019\)](#); [302 Neb. Admin. Code § 1-001 \(2019\)](#)

Nebraska, Unusual Disclosure Requirements

RADON

The seller's disclosure statement must disclose any environmental hazard, and the disclosure form set forth in the regulations specifically requires a seller to:

-

disclose whether radon has been identified on the property;

- provide a copy of any radon gas tests; and
- identify any radon mitigation that has occurred on the property.

LEAD-BASED PAINT

The seller's disclosure statement must disclose any environmental hazard, and the disclosure form set forth in the regulations requires a seller to disclose whether lead-based paint is on the real property and to provide a copy of any available test results.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the form requires the seller to disclose any "moving or settling" of the foundation, floor, wall, sidewalk, patio, driveway, or retaining walls.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by statement

The disclosure statement must disclose:

- the condition of all improvements and any "defects that materially affect the value of the real property or improvements";

- any damage to the property from wind, hail, fire, flood, wood-destroying insects, or rodents;

- any chimney damage;

- any leaking windows or insulated windows with broken seals;

- any of the following substances that have been on the real property and related tests: asbestos, contaminated soil or water, landfill or buried materials, toxic materials, underground storage tanks, and any other hazardous substances;

- whether trash removal service is provided;
- whether a pet lived in the dwelling;
- any diseased or dead trees or shrubs on the real property or trees or shrubs that are scheduled to be removed;
- whether the seller has been notified by the state Noxious Weed Control Authority in the last three years of the presence of noxious weed on the property (The Real Estate Commission amended the state's disclosure statement by adding this requirement effective January 1, 2017.);
- the existence of any private transfer fee obligation; and
- effective August 30, 2015, information relating to compliance with statutory requirements for a carbon monoxide alarm. (The Real Estate Commission amended the state's disclosure statement to comply with this requirement effective January 1, 2017.)

Sanitary and improvement districts

Effective September 6, 2015, a real estate broker or salesperson or, if none, the owner must obtain an acknowledgment from any purchaser of any real estate located within a sanitary and improvement district that the purchaser understands the following:

- that the property is located within a sanitary and improvement district;

- that sanitary and improvement districts are located outside any municipality's corporate limits;
- that residents of sanitary and improvement districts are not eligible to vote in municipal elections; and
- that owners of property located within sanitary and improvement districts have limited access to services provided by nearby municipalities unless a municipality annexes the property.

This acknowledgment may be obtained separately from the disclosure required by Neb. Rev. Stat. § 76-2,120.

Statutory sections amended 2015; regulation/form effective January 2017.

[Neb. Rev. Stat. §§ 31-727.03\(3\); 76-2,120\(4\), \(13\) \(2019\); 302 Neb. Admin. Code § 1-001 \(2019\)](#)

Nevada

Nevada, Agent's Obligations Regarding Seller's Required Disclosures

Nevada regulations must ensure that the disclosure form provides notice that:

- the disclosures are made by the seller and not by his agent; and
- the seller's agent and the purchaser's agent may reveal the completed form and its contents to any purchaser or potential purchaser of the residential property.

Note too that generally a licensee must disclose to each party to a real estate transaction as soon as is practicable “[a]ny material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.” [Nev. Rev. Stat. § 645.252\(1\)\(a\) \(2019\)](#).

In a residential property sale, a licensee must distribute the [booklet](#) prepared by the Real Estate Division that provides relevant information concerning the disclosures required of a buyer and a seller by federal, state, and local laws.

Section 113.120 enacted 1995; § 645.194 enacted 2005.

[Nev. Rev. Stat. Ann. §§ 113.120; 645.194 \(2019\)](#)

Nevada, Flood-related Disclosures

Nevada's mandatory seller's disclosure form requires the following flood-related disclosures:

- whether the seller is aware of any "drainage, flooding, water seepage, or high water table"; and
- whether the property is located in a designated flood plain.

Form revised August 2017.

[Seller's Real Property Disclosure Form \(Aug. 25, 2017\)](#)

Nevada, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The following facts are not material to real property sale:

- that the property has been the site of a homicide, suicide or death by any other cause, unless it resulted from the property's condition;
- that the property was the site of any felony other than a crime that involves the manufacturing of methamphetamine;
- that the property was occupied by a person exposed to HIV or suffering from AIDS or any other disease that is not transmitted through occupancy;
- that a sex offender resides in the community; and
- that a released offender transitional living facility licensed under chapter 449 is located near the property.

See § 40.770(6) and "Unusual Disclosure Requirements" for details related to methamphetamine production on the property.

RELIANCE ON THIRD-PARTY REPORTS

A purchaser may not recover damages from a seller because of an error or omission in the disclosure form that was caused by the seller's reliance on information provided by:

- a Nevada officer or state employee in the ordinary course of his duties; or

- an authorized contractor, engineer, land surveyor, certified inspector or pesticide applicator.

Section 40.770 amended 2009; § 113.150 amended 1997.

[Nev. Rev. Stat. Ann. §§ 40.770; 113.150 \(2019\)](#)

Nevada, Seller's Disclosure Form

Unless exempt pursuant to Nev. Rev. Stat. § 113.130(2), a seller of residential real property must complete the most current form for disclosing the property's condition, as provided by the real estate division of the department of business and industry. The seller may not modify, alter or amend the form in any manner, except with the division's approval. Also, a purchaser may not waive, and a seller may not require a purchaser to waive, the purchaser's right to the disclosure form.

A copy of Nevada's [Seller's Real Property Disclosure Form](#) is available online.

Statutory section 113.120 enacted 1995; § 113.130 amended 2011; regulation amended 1998; form revised 2017.

[Nev. Rev. Stat. Ann. §§ 113.120, .130 \(2019\); Seller's Real Property Disclosure Form \(Aug. 25, 2017\); see also Nev. Admin. Code ch. 113, § 150 \(2019\)](#)

Nevada, Unusual Disclosure Requirements

RADON

The mandatory form provides that a seller must disclose any substances that may be an environmental hazard, including radon gas on the property.

LEAD-BASED PAINT

The mandatory form provides that a seller must disclose whether the property was constructed on or before December 31, 1977, and, if so, the seller must provide additional Federal EPA notification and disclosure documents regarding lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Although research located no provision specifically requiring a seller to disclose the existence of local earthquake zones, the mandatory form requires a seller to disclose whether:

- any improvements are located on "unstable or expansive soil"; and
- any "foundation sliding, settling, movement, upheaval, or earth stability problems" have occurred on the property.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Except as otherwise provided by § 40.770(6), the fact that the property is or has been the site of any crime punishable as a felony *other than* a crime that involves the manufacture of any material that

contains "any quantity of methamphetamine" is not material to the transaction. The fact that the property is or has been the site of a crime that involves the manufacture of any preparation that contains any quantity of methamphetamine is not material to the transaction if:

- all materials and substances involving methamphetamine have been removed from or remediated on the property by a certified or licensed entity; or
- the board of health has deemed the property safe for habitation.

Accordingly, the state's disclosure form requires the disclosure of whether the property has been "the site of a crime involving the previous manufacture of Methamphetamine where the substances have not been removed from or remediated on the Property by a certified entity or has not been deemed safe for habitation by the Board of Health."

OTHER UNUSUAL REQUIREMENTS

Unusual requirements on mandatory form

The mandatory form requires the seller to disclose:

- whether the property is located near any known future development;
- whether any substances or products that may be an environmental hazard, including asbestos, urea formaldehyde, storage tanks, or contaminated water or soil, are on the property;

- any fungus or mold; and
- any other conditions that would materially adversely affect the property's value or use.

Other independent disclosures

Nevada statutes also require the following specific, independent disclosures:

- pursuant to Nev. Rev. Stat. Ann. 113.135, a seller must notify the initial purchaser of residential property of certain soil reports;
- pursuant to Nev. Rev. Stat. Ann. 113.060, certain sellers of previously unsold homes or improved lots must give notice of water and sewage rates;
- pursuant to Nev. Rev. Stat. 113.070, the seller must, by separate written document, disclose to the initial purchaser the zoning classifications and designations in the master land use plan for adjoining parcels, which notice must contain the specific language set forth in the statute; and
- pursuant to Nev. Rev. Stat. 113.080, certain sellers of property located in a county with a population of 700,000 must disclose gaming enterprise districts, including a copy of the most recent gaming enterprise district map for the property and the location of the closest gaming enterprise district.

Energy consumption

Nev. Rev. Stat. § 113.115, which previously required a seller to have a residential property's energy consumption evaluated and provide, before closing, a completed evaluation on a form provided by the Director of the Office of Energy, has been repealed. The Legislative Counsel's Digest explains the change as follows:

Existing law requires the Nevada Energy Commissioner to establish a program for evaluating energy consumption in residential property in this State and requires a seller to provide a copy of this evaluation to a purchaser of his or her property. (NRS 113.115, 701.250) This bill repeals those provisions. Instead, section 5 of this bill provides for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry and establishes the training and qualifications an energy auditor must have to be licensed to conduct energy audits in this State. Section 6 of this bill establishes the requirements for conducting an energy audit, limited energy audit or energy assessment, including, without limitation, the elements of the home which must be evaluated, the software and tools the energy auditor must use and the report the energy auditor must provide to the homeowner and the United States Department of Energy.

Neither section 5 nor section 6 of the act requires disclosures to real estate purchasers.

Open range

Before the purchaser of a home or an improved or unimproved lot that is adjacent to open range signs a sales agreement, the seller must disclose to the buyer, in a separate written document, information regarding grazing on the open range, which document must include the following statement:

This property is adjacent to open range on which livestock are permitted to graze or roam. Unless you construct a fence that will prevent livestock from entering this property, livestock may enter the property and you will not be entitled to collect damages because the livestock entered the property. Regardless of whether you construct a fence, it is unlawful to kill, maim or injure livestock that have entered this property.

The seller must also disclose that the parcel "may be subject to claims made by a county or this State of rights-of-way granted by Congress over public lands of the United States not reserved for public uses in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932, commonly referred to as R.S. 2477), and accepted by general public use and enjoyment before, on or after July 1, 1979, or other rights-of-way." Those rights-of-way may be:

- "[u]nrecorded, undocumented or unsurveyed"; and
- "used by persons, including, without limitation, miners, ranchers or hunters, for access or recreational use, in a manner which interferes with the use and enjoyment of the parcel."

Land sale installment contracts

A person engages in a "deceptive trade practice" if, as the seller in a land sale installment contract, he or she fails to disclose:

- any encumbrance or other legal interest in the real property subject to the contract;
- any known condition that would affect the buyer's use of the property; and
- the nature and extent of legal access to the property.

Private transfer fees

A seller of real property that is subject to a private transfer fee must furnish to the buyer a written statement that:

- discloses the existence of the private transfer fee;

- describes the private transfer fee; and
- provides a notice in substantially the following form:

A private transfer fee obligation has been created with respect to this property. The private transfer fee obligation may lower the value of this property. The laws of this State prohibit the enforcement of certain private transfer fee obligations that are created or recorded on or after the effective date of this act (section 10 of this act) and impose certain notice requirements with respect to private transfer fee obligations that were created before the effective date of this act (section 11 of this act).

The state's disclosure form requires disclosure of whether the property is subject to a private transfer fee.

Sections 113.060 and 113.150 amended 1997; § 113.070 amended 1999; § 113.135 amended 2015; § 113.115 repealed 2011; §§ 40.770, 113.065, and 598.0923 amended 2009; § 113.080 amended 2011; § 113.085 enacted 2011; form revised 2017.

[Nev. Rev. Stat. Ann. §§ 113.060, .065, .070, .080, .085, .115 \(repealed by 2011 Nev. Stat. ch. 348 \(A.B. 432\)\), .135, .150; 40.770; 598.0923 \(2019\); Seller's Real Property Disclosure Form \(Aug. 25, 2017\)](#)

New Hampshire

New Hampshire, Agent's Obligations Regarding Seller's Required Disclosures

A licensee listing residential property for sale, purchase or exchange must ask the seller:

- if the property is served by a private water supply, the type of water system, its location, any malfunctions, its installation date, the most recent test date, and whether the seller has experienced a problem;
- about the type and location of insulation; and

- if the property is served by a private sewage disposal system, the system location, any malfunctions, the date of the most recent servicing, and the name of the contractor who services the system.

Although not specifically related to *seller* disclosures, buyer agents, seller agents, designated agents, and facilitators must disclose "any material physical, regulatory, mechanical, or on-site environmental condition" affecting a property of which the licensee or facilitator has actual knowledge. Such disclosure must occur any time prior to the time the buyer makes a written offer to purchase the subject property. This does not create an affirmative obligation on the part of the licensee to investigate material defects.

Regulations re-promulgated 2017; statutory sections 331-A:25-b, 331-A:25-c, and 331-A:25-e amended 2008; § 331-A:25-f amended 2015.

[N.H. Code Admin. R. Rea 701.02, .03, .04, .05 \(2019\)](#); [N.H. Rev. Stat. §§ 331-A:25-b, -c, -e, -f \(2019\)](#)

New Hampshire, Flood-related Disclosures

No relevant provisions were located.

New Hampshire, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

Neither a property owner nor his agent need disclose to a buyer that the property was the site of a homicide, another felony, or a suicide, unless the buyer requests the information.

Section enacted 1994.

[N.H. Rev. Stat. § 477:4-e \(2019\)](#)

New Hampshire, Seller's Disclosure Form

Although a seller must disclose to a buyer certain information about real property to be used as a one- to four-family dwelling, no mandatory form was located in New Hampshire regulations or statutes.

Section enacted 1994.

See [N.H. Rev. Stat. § 477:4-d \(2019\)](#)

New Hampshire, Unusual Disclosure Requirements

RADON

Effective as of January 1, 2016, a seller or his or her agent must provide the following notice to the buyer:

Radon: Radon, the product of decay of radioactive materials in rock, may be found in some areas of New Hampshire. Radon gas may pass into a structure through the ground or through water from a deep well. Testing of the air by a professional certified in radon testing and testing of the water by an accredited laboratory can establish radon's presence and equipment is available to remove it from the air or water.

LEAD-BASED PAINT

The seller or his agent must provide the following notice to the buyer effective April 9, 2018:

"Lead: Before 1978, paint containing lead may have been used in structures.

Exposure to lead from the presence of flaking, chalking, chipping lead paint or lead paint dust from friction surfaces, or from the disturbance of intact surfaces containing lead paint through unsafe renovation, repair or painting practices, or from soils in close proximity to the building, can present a serious health hazard, especially to young children and pregnant women. Lead may also be present in drinking water as a result of lead in service lines, plumbing and

fixtures. Tests are available to determine whether lead is present in paint or drinking water."

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The sale, transfer, lease, or rental of real property on which methamphetamine was produced is subject to the notification provisions set forth in § 477:4-g. That section provides that before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under § 318-D has occurred on the property and before the department of environmental services determines that the property meets remediation cleanup standards:

- the seller or lessor must disclose in writing to the buyer, lessee, or occupant if, to the transferor's knowledge, methamphetamine production has occurred on the property; and

- if methamphetamine production has occurred on the property, "the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant."

OTHER UNUSUAL REQUIREMENTS

Condominium disclosures

A condominium unit seller must provide written notice to the buyer that the buyer has the right to obtain the information in § 356-B:58 from the condominium unit owners' association, which information must include:

- a copy of the condominium declaration, by-laws, and any formal rules of the association;
- a monthly and annual fee statement; and
- a statement of any special assessments made within the last three years.

The buyer must sign a copy of the notice to acknowledge its receipt.

Public utility tariffs

Before or during the preparation of an offer for the purchase and sale of real property and before the signing of the agreement, the seller must disclose in writing to the buyer whether any metered public utility services that the buyer may be "responsible for paying as a condition of such utility service is provided under a tariff with unamortized or ongoing charges for energy efficiency or renewable energy improvements." The disclosure must include, if known:

- the charges' remaining term and amount; and
- any estimates or documentation of gross or net energy or fuel savings resulting from the financed or amortized improvements and investments.

The buyer must sign a copy of the disclosure to acknowledge its receipt. If information regarding the required disclosure is not available, that fact must also be conveyed, in writing.

Arsenic

Effective January 1, 2016, a seller or his or her agent must provide the following notice to the buyer:

Arsenic: Arsenic is a common groundwater contaminant in New Hampshire that occurs at unhealthy levels in well water in many areas of the state. Tests are available to determine whether arsenic is present at unsafe levels, and equipment is available to remove it from water. The buyer is encouraged to consult the New Hampshire department of environmental services private well testing recommendations (www.des.nh.gov) to ensure a safe water supply if the subject property is served by a private well.

Section 477:4-f enacted 2004; §§ 318-D:4 and 477:4-g enacted 2006; § 474-h enacted 2010; § 477:4-a amended 2018.

[N.H. Rev. Stat. §§ 477:4-a, -f, -g, -h; 318-D:4 \(2019\)](#)

New Jersey

New Jersey, Agent's Obligations Regarding Seller's Required Disclosures

A licensee must disclose all known information material to a property's physical condition or that a reasonable effort would have revealed. Also, in all sales contracts involving newly constructed residential real estate, a licensee must disclose, by use of the specific language set forth in N.J. Admin. Code tit. 11, § 5-6.4, off-site conditions that may materially affect the property's value. A licensee must also include the Megan's Law Statement set forth in r. 5-6.4 in all residential real estate contracts or leases that he or she prepares.

A licensee is not subject to punitive damages or attorneys' fees for the communication of any false, misleading or deceptive information to a buyer, if the licensee:

- did not know that the information was false, misleading or deceptive; and
- made a reasonable and diligent inquiry to determine whether the information was false, misleading or deceptive character.

A licensee is deemed to have made a "reasonable and diligent inquiry" if the false information was:

- provided in a report or on a representation by a licensed or certified appraiser, engineer, architect, home inspector, plumber or electrical contractor;
- provided in a report or upon a representation by any governmental official or employee; or
-

obtained from the seller in a property condition disclosure statement, as long as the licensee informs the buyer that the seller is the source of the information, and the licensee visually inspects the property with reasonable diligence to ascertain the accuracy of the seller's information.

Regulation 11:5-6.4 amended and readopted 2009; r. 13:45A-29.1 readopted 2006; § 56:8-19.1 amended 2004.

[N.J. Stat. § 56:8-19.1 \(2020\)](#); [N.J. Admin. Code §§ 11:5-6.4, 13:45A-29.1 \(LexisNexis 2020\)](#)

New Jersey, Flood-related Disclosures

The state's disclosure form requires the following flood-related disclosures:

- whether the property has ever been damaged by flood;
- whether the property is located in a flood hazard zone; and
- whether the seller is aware of any drainage or flood problems that affect the property.

Regulation readopted 2006.

[N.J. Admin. Code § 13:45A-29.1 \(LexisNexis 2020\)](#)

New Jersey, Other Relevant Provisions

No other relevant provisions were located.

New Jersey, Seller's Disclosure Form

The New Jersey Seller's Property Condition Disclosure Statement must be in the form set forth in New Jersey regulations, and must contain, at a minimum, the information required by the form. A seller may request additional information that a licensee deems appropriate.

Regulation readopted 2006.

[N.J. Admin. Code 13:45A-29.1 \(LexisNexis 2020\)](#)

New Jersey, Unusual Disclosure Requirements

RADON

In the sale of a building that has been tested for radon gas, the seller must provide the buyer with a copy of the test results and information regarding any subsequent mitigation or treatment. The property disclosure form provides a notice that a property owner who has had his or her property tested or treated for radon gas may require that information be kept confidential until the owner and a buyer enter into a contract of sale, at which time a copy of the test results and evidence of any subsequent mitigation or treatment must be provided to the buyer.

LEAD-BASED PAINT

The property disclosure form requires a seller to disclose whether the property has been tested for the presence of any toxic substances, such as lead-based paint.

LOCAL AIRPORTS

The property disclosure form requires a seller to disclose whether the property is located in a designated Airport Safety Zone.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the property disclosure form requires a seller to disclose whether he or she has received written notification from a public agency or private concern advising that the property is adversely affected, or may be adversely affected, by a condition that exists on property in the vicinity of the seller's property.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the property disclosure form requires the seller to disclose any sink holes and any movement, shifting, or other problems with walls, floors, or foundations.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Newly constructed residential real estate

For newly constructed residential real estate, the seller must provide the purchaser with notice of the availability of lists of off-site conditions that exist within the boundaries of the municipality in which the property is located and within any other municipality located within one-half mile of the residential real estate, which may include airports. The notice must be in the form set forth in § 46:3C-8.

Unusual disclosure form requirements

The property disclosure form requires the seller to disclose:

- any mold in any of structures on the property;

- restrictions on how the attic may be used because of the manner in which the attic or roof was constructed;
- any past or present mining operations in the area;
- whether any part of the property is being claimed by the State of New Jersey as land presently or formerly covered by tidal water;
- underground storage tanks or toxic substances now or previously present on the property or on adjacent property, including PCBs, solvents, hydraulic fluid, petrochemicals, hazardous wastes, pesticides, chromium, thorium, lead or other hazardous substances in the soil; and
- other toxic substances, such as urea-formaldehyde foam insulation and asbestos-containing materials.

Private transfer fees

Before closing a real property sale, the seller must furnish to the purchaser a written statement disclosing any private transfer fee obligations. The statement must include:

- a description of the private transfer fee obligation; and
- a statement that "private transfer fee obligations are subject to prohibitions under P.L.2010, c.102 (C.46:3-28 et seq.)."

Statutory section 26:2D-73 enacted 1986; § 46:3C-8 enacted 1995; § 46:3-32 enacted 2010; regulation readopted 2006.

[N.J. Stat. §§ 26:2D-73; 46:3-32, :3C-8 \(2020\); N.J. Admin. Code § 13:45A-29.1 \(LexisNexis 2020\)](#)

New Mexico

New Mexico, Agent's Obligations Regarding Seller's Required Disclosures

GENERAL REQUIREMENTS

Generally, a broker must disclose in writing to a prospective buyer, seller, landlord or tenant, any known adverse material facts about the property, the transaction, or the parties' financial ability to complete the transaction. "Adverse material facts" requiring disclosure do not include any "information covered by federal fair housing laws or the New Mexico Human Rights Act."

PROPERTY TAXES

Before a seller accepts an offer, the seller or the seller's broker must:

- request from the county assessor the property's estimated property tax levy amount, specifying the listed price as the value to be used in the estimate; and
- provide a copy of the assessor's response in writing to the prospective buyer or the buyer's broker.

The buyer's broker must provide the prospective buyer with the county assessor's estimated property tax amount immediately upon receiving it from the seller or the seller's broker. The prospective buyer must acknowledge in writing receipt of the estimated property tax amount.

A buyer may waive this disclosure requirement by signing a written document before making the purchase offer. The document must:

- acknowledge "that the required estimated amount of property tax levy is not readily available"; and
- waive disclosure of the estimated property tax levy amount.

All property sellers, brokers, and agents who have complied with this requirement are immune from suit and liability arising from or related to the estimated property tax levy amount.

HOMEOWNER ASSOCIATION ACT

If a lot is located within a development subject to an association that is subject to the Homeowner Association Act, a seller or the seller's agent must obtain a disclosure certificate from the homeowner's association and provide it to the purchaser at least seven days before closing.

Regulation 16.61.19.8 amended 2019; statutory section 47-13-4 enacted 2009; § 47-16-11 enacted 2013.

[N.M. Code R. § 16.61.19.8\(A\) \(2019\); N.M. Stat. § 47-13-4, -16-11 \(2019\)](#)

New Mexico, Flood-related Disclosures

No relevant provisions were located.

New Mexico, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A real property seller and any agent involved in the transaction is not liable for failing to disclose the fact or suspicion that real property has been:

- the site of a natural death;
- the site of a homicide, suicide, assault, sexual assault or other felony; or
- owned or occupied by a person who was exposed to or infected with HIV or diagnosed with AIDS or any other disease that is highly unlikely to be transmittable to others through occupancy of real property.

Section enacted 1991.

[N.M. Stat. § 47-13-2 \(2019\)](#)

[New Mexico, Seller's Disclosure Form](#)

Research located no New Mexico statutes or regulations requiring a seller to disclose general information about real estate to a prospective buyer.

[New Mexico, Unusual Disclosure Requirements](#)

RADON

Research located no provision requiring a seller to disclose the existence of radon on property.

LEAD-BASED PAINT

Research located no provision requiring a seller to disclose the existence of lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Subdivision conveyances

Before conveying any land in a subdivision, the subdivider must disclose in writing information to permit the prospective purchaser to make an informed decision about the conveyance. See § 47-6-17 for details regarding the required subdivider disclosure.

Property taxes

Before a seller accepts an offer, the seller or the seller's broker must:

- request from the county assessor the estimated property tax levy amount, specifying the listed price as the value to be used in the estimate; and
- provide a copy of the assessor's response in writing to the prospective buyer or the buyer's broker.

The prospective buyer must acknowledge in writing receipt of the estimate. The buyer may waive this disclosure requirement by signing a written document before making the purchase offer. The document must:

- acknowledge "that the required estimated amount of property tax levy is not readily available"; and
- waive disclosure of the estimated property tax levy amount.

All property sellers, brokers, and agents who have complied with this requirement are immune from suit and liability arising from or relating to the estimated property tax levy amount.

Homeowner Association Act

If a lot is located within a development subject to an association that is subject to the Homeowner Association Act, a seller or the seller's agent must obtain a disclosure certificate from the homeowner's association and provide it to the purchaser at least seven days before closing.

Section 47-6-17 amended 1995; § 47-13-4 enacted 2009; § 47-16-11 enacted 2013.

[N.M. Stat. §§ 47-6-17, -13-4, -16-11 \(2019\)](#)

New York

New York, Agent's Obligations Regarding Seller's Required Disclosures

An agent representing a residential real property seller as a listing broker must timely inform each seller he represents of the seller's obligations under article 14. An agent representing a residential real property buyer, or, if the buyer is not represented, the agent representing a residential real property seller who is dealing with a prospective buyer, must timely inform the buyer of the buyer's rights and obligations under article 14. If an agent performs these duties, the agent has no additional duties under article 14 and is not liable for any violation of the article's provisions.

Section enacted 2001.

[N.Y. Real Prop. Law § 466 \(2019\)](#)

New York, Flood-related Disclosures

New York's disclosure statement requires the following flood-related disclosures:

- whether "any or all of the property" is located in a "designated floodplain"; and
- whether there is any flooding, drainage, or grading problems that have resulted in standing water on any part of the property.

The statement also encourages the buyer to check public records, such as wetland and floodplain maps.

Section 462 enacted 2001; § 242 amended 2011; § 475 enacted 2011.

[N.Y. Real Prop. Law §§ 242, 462\(2\), 475 \(2019\); ***Property Condition Disclosure Statement \(rev. Aug. 2017\)***](#)

New York, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

It is not a material defect that:

- a property's owner or occupant "is, or was at any time suspected to be, infected with human immunodeficiency virus or diagnosed with acquired immune deficiency syndrome" or any other disease that medical evidence has determined to be "highly unlikely to be transmitted through occupancy of a dwelling place"; or
- a property "is, or is suspected to have been, the site of a homicide, suicide or other death by accidental or natural causes, or any crime punishable as a felony."

No cause of action arises against an owner or occupant, his or her agent, or a seller's or buyer's agent, for failure to disclose any of the above facts or suspicions. However, if that information is important to a buyer's decision to purchase or lease the property, the buyer may submit a written inquiry for the information, and the seller may choose whether or not to respond to the inquiry. The seller's agent, with the seller's consent and subject to applicable privacy laws, must report any response to the buyer's agent (or to the buyer, if he or she does not have an agent). If there is no seller's agent, the seller must inform the buyer's agent (or the buyer, if there is no buyer's agent), whether or not the seller provides a response.

Section enacted 1995.

[N.Y. Real Prop. § 443-a \(2019\)](#)

New York, Seller's Disclosure Form

Unless exempt pursuant to N.Y. Real Prop. Law § 463, every seller of residential real property must complete and sign a [Property Condition Disclosure Statement \(rev. Aug. 2017\)](#), which is set forth at N.Y. Real Prop. Law § 462(2). A copy of the statement containing the seller's and the buyer's signatures must be attached to the real estate purchase contract.

Section enacted 2001.

[N.Y. Real Prop. Law § 462\(1\), \(2\) \(2019\)](#)

New York, Unusual Disclosure Requirements

RADON

The Property Condition Disclosure Statement requires a seller to disclose whether a radon test has been performed on the property. If the property has been tested for radon, the seller must attach a copy of the report to the statement.

LEAD-BASED PAINT

The Property Condition Disclosure Statement encourages the buyer to investigate the presence of lead-based paint if any structure on the property was built before 1978. Research located no provision requiring a seller to disclose the existence of lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Other requirements from disclosure statement

The Property Condition Disclosure Statement requires a seller to disclose:

- whether the property was the site of a landfill;

- any wetlands;

- information about any fuel storage tanks ever located on the property;

- the existence of asbestos, fuel, oil, other petroleum products, methane gas, or hazardous or toxic substances that spilled, leaked, or were released on the property; and
- the existence of lead plumbing.

Surcharges

A seller of real property against which an electric, gas or water utility surcharge is assessed to defray the costs associated with an electric, gas or water line extension or costs associated with related facilities must provide written notice to the prospective purchaser or his or her agent. The notice must state, "This property is subject to an electric, gas and/or water utility surcharge," and include the following:

- the type and purpose of the surcharge;
- the surcharge amount; and
- whether the surcharge is payable on a monthly, yearly or other basis.

Natural gas wells

A person or entity offering to sell real property that the person or entity knows to contain an uncapped natural gas well must inform the purchaser of the well's existence before entering into a sales contract.

Green jobs-green New York

A person or entity offering to sell real property subject to a "green jobs-green New York on-bill recovery charge" must provide the following written notice to the prospective purchaser or his or her agent: "This property is subject to a green jobs-green New York on-bill recovery charge." The notice must include:

- the original charge's total amount;
- the payment schedule;
- the approximate remaining balance;
- the energy efficiency services performed; and
- an "explanation of the benefit of the green jobs-green New York qualified energy efficiency services."

The seller must provide this notice before the seller accepts a purchase offer.

Private transfer fees

Before a buyer signs a binding contract for the sale of real property, the seller must furnish a purchaser with a written statement that discloses the existence of any private transfer fee obligation. The statement must include:

- a description of the obligation; and
- a statement that "private transfer fee obligations are subject to prohibitions" under N.Y. Real Prop. Laws § 475.

Section 462 enacted 2001; § 242 amended 2011; § 475 enacted 2011.

[N.Y. Real Prop. Law §§ 242, 462\(2\), 475 \(2019\); *Property Condition Disclosure Statement* \(rev. Aug. 2017\)](#)

North Carolina

North Carolina, Agent's Obligations Regarding Seller's Required Disclosures

As of January 1, 2015, a real estate broker acting as an agent in a residential real estate transaction must inform each client of his or her rights and obligations under the statutes. If the owner's broker has performed this duty, the licensee is not responsible for the owner's willful refusal to provide a prospective purchaser with a residential property disclosure statement, a "mineral and oil and gas rights mandatory disclosure statement," or an "owners' association and mandatory covenants disclosure statement."

Section amended 2014.

[N.C. Gen. Stat. § 47E-8 \(2019\)](#)

North Carolina, Flood-related Disclosures

The state's mandatory disclosure form requires the seller to disclose whether the property is "subject to a flood hazard" or "located in a federally-designated flood hazard area."

Regulation/form amended 2018, effective for property put on the market on or after July 1, 2018.

[21 N.C. Admin. Code 58A .0114 \(2019\)](#)

North Carolina, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Unless otherwise exempt, the disclosure requirements generally apply to the following residential real property transfers, whether or not the transaction is with the assistance of a real estate licensee:

- a sale or exchange;

- an installment land sales contract;

- an option; or

- a lease with a purchase option.

RELIANCE ON THIRD-PARTY REPORTS

The owner may discharge his disclosure duty by attaching to the disclosure statement or to the owners' association and mandatory covenants disclosure statement, a written report by the following parties dealing with matters within the scope of their expertise:

- a public agency;
- an "engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert"; or
- an attorney.

As of January 1, 2015, this provision does not apply to the disclosures required by N.C. Gen. Stat. § 47E-4.1 (regarding the "mineral and oil and gas rights mandatory disclosure" statement).

Section 47E-1 amended 1997; § 47E-6 amended 2014; 47E-4.1 enacted 2014.

[N.C. Gen. Stat. §§ 47E-1, -4.1, -6 \(2019\)](#)

North Carolina, Seller's Disclosure Form

Unless exempt pursuant to N.C. Gen. Stat. § 47E-2, a real property owner must furnish to a purchaser a residential property disclosure statement, which must:

- disclose those items that are required to be disclosed related to the property's characteristics and condition; or
-

state that the owner makes no representations as to the property's characteristics and condition except as otherwise provided in the real estate contract.

The North Carolina Real Estate Commission requires the standard disclosure statement form set forth at N.C. Admin. Code tit. 21, r. 58A .0114, which form must bear the North Carolina Real Estate Commission's seal. The Commission also requires the use of a standard disclosure statement to comply with the state's "owners' association and mandatory covenants" disclosure requirements.

Effective January 1, 2015, North Carolina's mandatory "mineral and oil and gas rights disclosure statement" must contain the language set forth in N.C. Gen. Stat. § 47E-4.1.

Section 47E-10 enacted 1995; § 47E-4 amended 2014; § 47E-4.1 enacted 2014; regulation amended 2018, effective for property put on the market on or after July 1, 2018.

[N.C. Gen. Stat. §§ 47E-4, -4.1, -10 \(2019\); 21 N.C. Admin. Code 58A .0114 \(2020\)](#)

North Carolina, Unusual Disclosure Requirements

RADON

The mandatory disclosure statement requires a seller to disclose the presence of radon gas on the property.

LEAD-BASED PAINT

The mandatory disclosure statement requires a seller to disclose the presence of lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. The mandatory form's requirement that the seller disclose whether there is "any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property" could arguably include airports in the property's vicinity. However, the 2012 form explicitly required the seller to disclose whether "there is any noise, odor, smoke, etc. from commercial, industrial, *airport*, or military sources which affects the property" (emphasis added), and the term "airport" no longer appears in the 2014 version of the form.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the mandatory disclosure statement requires a seller to disclose whether the lot has any soil stability problems.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located, but the mandatory disclosure statement requires a seller to disclose "environmental hazards," including "toxic materials." The mandatory form generally requires the seller to disclose whether there are "any hazardous or toxic substances, materials, or products . . . which exceed government safety standards, any debris . . . , or any environmentally hazardous conditions . . . which affect the property."

OTHER UNUSUAL REQUIREMENTS

Disclosure form requirements

The mandatory disclosure form requires the seller to disclose the presence of:

- asbestos;
- formaldehyde;
- methane gas;
- underground storage tanks;
- hazardous materials;
- toxic materials;
- contaminated soil or water; and
- other environmental contamination.

Note that legislation has permitted the state's Environmental Review Commission to study issues related to "hazard disclosures in coastal real estate transactions."

Owners' association and mandatory covenants disclosures

For transfers of residential real property containing one to four dwelling units, the owner must provide a purchaser with an owners' association and mandatory covenants disclosure statement. The disclosure statement must:

- specify that certain transfers are excluded from this requirement; and
- require disclosure of whether or not the property is subject to regulation by one or more owners' associations and governing documents that impose various mandatory covenants, conditions, and restrictions on the property.

The statement must include the information set forth in N.C. Gen. Stat. § 47E-4(b1).

Oil and gas rights

As of January 1, 2015, the property owner must furnish to a purchaser a "[mineral and oil and gas rights mandatory disclosure statement](#)" for the following transfers:

- a transfer of residential real property consisting of one to four dwelling units;
- a transfer involving the "first sale of a dwelling never inhabited";
- a lease with an option to purchase, if the lessee occupies or intends to occupy the dwelling; and

- a transfer between parties when both parties agree not to complete a residential property disclosure statement or an owners' association and mandatory covenants disclosure statement.

The disclosure must be conspicuous and in boldface type and must contain the language set forth in N.C. Gen. Stat. § 47E-4.1.

Contracts for deed

A contract for deed must contain a completed residential property disclosure statement that complies with Chapter 47E, provided that "the seller does not choose the option of making 'No Representation' as to any characteristic or condition of the property."

Statutory section 47E-4 amended 2014; § 47E-4.1 enacted 2014; § 47H-2 amended 2015; regulation amended 2018, effective for property put on the market on or after July 1, 2018.

[N.C. Gen. Stat. §§ 47E-4, -4.1; 47H-2 \(2019\); 21 N.C. Admin. Code 58A .0114 \(2020\)](#)

North Dakota

North Dakota, Agent's Obligations Regarding Seller's Required Disclosures

If an active licensee represents or assists an owner or another party with selling or buying the seller's owner-occupied primary residence in North Dakota, the seller must make a written disclosure to the prospective buyer before the purchase agreement is signed. The written disclosure must be signed by both seller and prospective buyer. The broker for both the seller and the prospective buyer must keep a copy of the completed, signed disclosure.

However, if a buyer, a prospective buyer, or a seller is not represented by a real estate brokerage firm in a real property transaction, that buyer or seller is a customer. The brokerage firm and its licensees owe the customer certain legal duties, including, among others, the duty to disclose to the customer any adverse material facts the licensee actually knows that pertain the property's title, physical condition, or defects.

Also, a licensee is not liable for any action resulting from the disclosure or nondisclosure of the registration of sexual offenders.

Unless otherwise agreed in writing, a licensee is *not* obligated to any person to discover defects in real property or to verify independently "the accuracy or completeness of any statement or representation made by any person other than the real estate brokerage firm and the real estate brokerage firm's licensees involved in the transaction."

Section 43-23-08.3 enacted 1999; § 43-23-12.1 amended 2011; § 47-10-02.1 enacted 2019; regulation amended 2012.

[N.D. Cent. Code §§ 43-23-08.3, -12.1; 47-10-02.1 \(2019\); N.D. Admin. Code 70-02-03-15.2 \(2019\)](#)

North Dakota, Flood-related Disclosures

The mandatory disclosure form requires the following flood-hazard related disclosures:

- whether the property been damaged by fire, smoke, wind, floods, hail, snow, frozen pipes, or broken water line;
- whether there drainage or flood issues;
- whether there has been flooding on the property; and
- whether the property is in a flood zone.

Form dated July 31, 2019.

[N.D. Real Estate Comm'n, Seller's Property Disclosure Form \(July 2019\)](#)

North Dakota, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

Licensees need not inform a prospective purchaser that property is psychologically impacted real property. However, if the prospective purchaser asks whether the property may be psychologically impacted, the licensee must ask the owner and advise the purchaser of the owner's response. If the owner refuses to answer, the licensee must so advise the purchaser. "Psychologically impacted properties" includes real property that:

- is or is suspected to have been the site of a suicide, homicide, or other felony; or
- that other circumstances, suspicions, or facts that may cause "emotional or psychological disturbance or concerns to a prospective purchaser or lessee that have the potential of influencing whether that individual will purchase or lease the property."

"Psychologically impacted property" does not include property on which any present or past occupant is or may be infected with HIV, AIDS, or any other disease that has been determined to be highly unlikely to be transmitted through occupying the property.

Regulations adopted 1992.

[N.D. Admin. Code §§ 70-02-01-19, -20 \(2019\)](#)

North Dakota, Seller's Disclosure Form

Effective August 1, 2019, if an active licensee represents or assists an owner or another party with selling or buying the seller's owner-occupied primary residence in North Dakota, the seller must make a written disclosure to the prospective buyer before the purchase agreement is signed, using the mandatory Seller's Property Disclosure Form promulgated by the North Dakota Real Estate Commission.

Form dated July 31, 2019.

[N.D. Real Estate Comm'n, Seller's Property Disclosure Form \(July 2019\)](#)

North Dakota, Unusual Disclosure Requirements

RADON

The mandatory disclosure statement requires a seller to disclose whether the property has been tested for radon, and if so, when and what were the results.

LEAD-BASED PAINT

The mandatory disclosure statement requires a seller to disclose whether there any lead hazards (such as lead paint, lead pipes, lead in soil) on the property, if if so, all available records and reports about lead-based hazards must be attached

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See "Other Unusual Requirements" below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The mandatory disclosure statement requires a seller to disclose whether the seller is "aware of any manufacture, storage, or use of methamphetamines on the property.

OTHER UNUSUAL REQUIREMENTS

Disclosure form requirements

The mandatory disclosure form requires the seller to disclose the presence of:

- asbestos-containing materials;
- pets on the property, past and present;
- mold growth in basement, closets, bathrooms or anywhere else on property;
- any rodent, animal or insect infestation;
- underground storage tanks; and
- shut-off, disconnected or abandoned wells.

Form dated July 31, 2019.

[N.D. Real Estate Comm'n, Seller's Property Disclosure Form \(July 2019\)](#)

Ohio

Ohio, Agent's Obligations Regarding Seller's Required Disclosures

No statutory or regulatory provisions were located that specifically address the agent's duty to assure that the seller makes the appropriate disclosures. However, the "Notice of Public Hearing" for the proposed rule change renumbering the seller disclosure rule notes the following: "[T]he burden to provide the form to the buyer is on the transferor and therefore is one of the forms fiduciary duty dictates a seller's broker must provide to the seller along with other forms promulgated by the Division's rules."

Although a licensee must disclose all known material facts regarding a property's physical condition that the purchaser would not discover by a reasonably diligent inspection, the licensee is not required to verify the accuracy or completeness of seller's disclosure statement unless he reasonably questions the statement's accuracy or completeness.

A licensee is not liable to a party for false information that "the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction," unless the licensee:

- knew that the information was false; or
- acted with a "reckless disregard for the truth."

Section 4735.67 enacted 1996; § 4735.68 amended 2011.

[Ohio Rev. Code § 4735.67, .68 \(2019\); Ohio Dep't of Commerce, Real Estate Div., Notice of Public Hearing \(Aug. 22, 2008\)](#)

Ohio, Flood-related Disclosures

Ohio's mandatory disclosure form requires the following flood-related disclosures:

- whether the property is located in a designated flood plain or included in a Lake Erie Coastal Erosion Area;
- whether the seller knows of any previous or current flooding or drainage problems; and
- whether the seller is aware of any water- or moisture-related damage to floors, walls, or ceilings as a result of flooding or other water-related events.

Form amended 2013.

[Ohio Dep't of Commerce, Residential Property Disclosure Form \(2013\)](#)

Ohio, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

A person generally must comply with the seller's disclosure requirements if he or she intends to transfer residential real property by:

- sale;
- land installment contract;

- lease with option to purchase;
- exchange; or
- lease "for a term of ninety-nine years and renewable forever."

Section amended 2005.

[Ohio Rev. Code § 5302.30\(B\)\(1\), \(C\) \(2019\)](#)

Ohio, Seller's Disclosure Form

Unless exempt pursuant to § 5302.30(B)(2), (E) and (F), a seller must complete all applicable items in the property disclosure statement, which is contained in Ohio Admin. Code § 1301:5-6-10. The form contains:

- a notice regarding how the purchaser may obtain information regarding Ohio's Sex Offender Registration and Notification Law; and
- a statement that information on the operation and maintenance of the type of sewage treatment system serving the property is available from the Department of Health or the Board of Health.

Ohio's [Residential Property Disclosure Form](#) and [Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards](#) form are available online.

Statutory section 5302.30 amended 2005; regulation amended 2012; disclosure form amended 2013; lead form amended 2014.

[Ohio Rev. Code § 5302.30 \(B\), \(C\) \(2019\)](#); [Ohio Dep't of Commerce, Residential Property Disclosure Form \(2013\)](#); see also [Ohio Admin. Code § 1301:5-6-10 \(2020\)](#)

Ohio, Unusual Disclosure Requirements

RADON

A seller must disclose the presence of radon gas on the property.

LEAD-BASED PAINT

A seller must disclose the presence of lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the seller must disclose several other environmental items. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, a seller must disclose whether any movement, shifting, or deterioration created material problems with the foundation, basement or crawl space, floors, or walls.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Housing codes

An owner who has received written notice that the property is in violation of any building or housing code must give the purchaser written notice of the code violations.

Hazardous materials and damage

A seller must disclose the presence of hazardous materials or substances, including:

- asbestos; and
- urea formaldehyde foam insulation.

A seller must also disclose:

- whether the property has been inspected for mold;
-

any smoke damage;

- whether the property is located in a flood plain or the Lake Erie Coastal Erosion Area; and
- whether the property is located in a historical area or an area subject to fees and assessments.

Sex offenders

The state's disclosure form contains a notice regarding how the purchaser may obtain information regarding Ohio's Sex Offender Registration and Notification Law.

Sewage treatment

The state's disclosure form contains a statement that information on the operation and maintenance of the type of sewage treatment system serving the property is available from the department of health or the board of health.

Flood-related disclosures

Ohio's disclosure form requires the following flood-related disclosures:

- whether the property is located in a designated flood plain;
- whether the seller knows of any previous or current flooding or drainage problems; and

- whether the seller is aware of any water- or moisture-related damage to floors, walls, or ceilings as a result of flooding or other water-related events.

Statutory section 5301.253 effective 1978; § 5302.30 amended 2005; regulation amended 2012; form amended 2013.

[Ohio Rev. Code §§ 5301.253, 5302.30\(D\) \(2019\)](#); [Ohio Dep't of Commerce, Residential Property Disclosure Form \(2013\)](#); *see also* [Ohio Admin. Code § 1301:5-6-10 \(2020\)](#)

Oklahoma

Oklahoma, Agent's Obligations Regarding Seller's Required Disclosures

A licensee:

- who is representing or assisting a seller must obtain a disclaimer or disclosure statement from the seller and make it available to a potential purchaser;
- who is representing or assisting a buyer must obtain and make available to the purchaser a disclaimer or disclosure statement; and
- must disclose to the purchaser any known defects that are not included in the disclosure statement.

A licensee who has complied with the above requirements has no further duties to the seller or buyer regarding required property disclosures. A licensee who has not complied with those requirements is subject to disciplinary action. A licensee has no duty to the seller or the buyer to conduct an independent inspection of the property or to verify the accuracy or completeness of the seller's disclaimer or disclosure statement.

A licensee may be sanctioned for violating the Residential Property Condition Disclosure Act.

A licensee is not required to provide a property's size or area. If a licensee provides that information, it is not considered a warranty or guarantee of the property's size or area. If a licensee provides a party with third-party information concerning the property's size or area, the licensee must identify the information's source. A licensee has no duty to a seller or purchaser to conduct an independent investigation of a property's size or area or to verify independently the accuracy of any third-party information regarding size or area. A licensee who has complied with these requirements has no further duties to a seller or purchaser regarding disclosed or undisclosed property size or area information and is not subject to liability for any damages sustained with regard to conflicting measurements or opinions of size or area.

A broker has a mandatory duty and responsibility to all parties to "[d]isclose information pertaining to the property as required by the Residential Property Condition Disclosure Act." A broker may not waive or abrogate this duty.

The state's [*Licensee's Disclosure to the Residential Property Condition Disclosure Statement*](#) is available online.

Section 858-312 amended 2019; § 836 amended 2007; §§ 858-515.1 amended 2012; § 858-353 amended 2013; licensee's disclosure form amended 2006.

[Okla. Stat. Ann. tit. 59, §§ 858-312, -353, -515.1; tit. 60, § 836 \(2019\); Okla. Real Estate Comm'n, *Licensee's Disclosure to the Residential Property Condition Disclosure Statement* \(Nov. 2006\)](#)

Oklahoma, Flood-related Disclosures

The state mandatory disclosure form requires the following flood-related disclosures:

- the property's "flood zone status";
- whether the property is located in a floodway as defined in the Oklahoma Floodplain Management Act;

- whether the seller is aware of any "flood insurance requirements concerning the property";
- whether the seller has flood insurance on the property; and
- whether the property has been damaged or affected by a flood.

Form dated 2017.

[Okla. Real Estate Comm'n, Residential Property Condition Disclosure Statement \(Nov. 2017\)](#)

Oklahoma, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact or suspicion that real estate might be psychologically impacted is not a material fact that must be disclosed in a real estate transaction. "Psychologically impacted" includes, but is not limited to the fact that:

- an occupant is, has been, or was suspected to be infected with HIV or diagnosed with AIDS or another disease that is unlikely to be transmitted through the occupancy of a dwelling; or
- the property was or is suspected to have been the site of a suicide, homicide or other felony.

However, if a buyer in the process of making an offer, advises the owner's licensee that such factors are important to the person's decision, the licensee must ask the owner and report his findings to the buyer (subject to applicable privacy laws). If the owner refuses to disclose, the licensee assisting the owner must so advise the buyer.

RELIANCE ON THIRD-PARTY REPORTS

The seller is not liable for any error, inaccuracy or omission based on information that the seller reasonably believes to be correct and that is provided by public agencies. Delivery of information by a public agency satisfies the disclosure requirements.

Section 835 added 1994; § 858-513 amended 1998.

[Okla. Stat. Ann. tit. 60, § 835; tit. 59, § 858-513 \(2019\)](#)

Oklahoma, Seller's Disclosure Form

Subject to the exemptions set forth in § 838, a seller of residential real property must deliver to the purchaser either:

- a written property disclaimer statement form, stating that the seller either has never occupied the property and makes no disclosures concerning its condition or knows of no defects; or
- a written property condition disclosure statement on the form established by the Real Estate Commission.

The state's [Residential Property Condition Disclosure Statement](#) is available online. A [Residential Property Condition Disclaimer Statement Form](#) to be used by a seller who has never occupied the property, makes no disclosures regarding the property's conditions, and has no actual knowledge of any defect on the property is also available online.

Section 833 amended 2003; § 838 enacted 1994; disclosure form dated 2017; disclaimer dated 2014.

[Okla. Stat. Ann. tit. 60, § 833 \(2019\)](#); *see also* [Okla. Stat. Ann. tit. 60, § 838 \(2019\)](#); [Okla. Real Estate Comm'n, Residential Property Condition Disclosure Statement \(Nov. 2017\)](#); [Residential Property Condition Disclaimer Statement Form \(July 2014\)](#)

Oklahoma, Unusual Disclosure Requirements

RADON

The mandatory disclosure form requires the seller to disclose:

- the presence of radon gas; and
- whether the property has been tested for radon gas.

LEAD-BASED PAINT

The mandatory disclosure form requires the seller to disclose:

- the presence of lead-based paint; and
- whether the property has been tested for lead-based paint.

See also [Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards](#)

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the seller must make several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Oklahoma's mandatory disclosure form requires disclosure of earthquake damage to the property.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

The mandatory form requires the seller to disclose the existence of hazardous or regulated materials and other conditions having an environmental impact, including residue from drug manufacturing.

MOLD

The mandatory disclosure form requires the seller to disclose:

- whether the property has been inspected for mold; and
- whether there has been any remedial treatment for mold on the property

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The mandatory form requires the seller to disclose:

- any termite bait system installed on the property and whether it is monitored by a licensed exterminating company;
- any major fire, tornado, or wind damage;
- any asbestos;
- any underground storage tanks;
- any landfill on the property;
- the existence of hazardous or regulated materials and other conditions having an environmental impact;
- any condition that would impair the occupant's health or safety;

- hail damage;
- "sewer, septic, lateral lines or aerobic system[s]";
- whether the property is in a fire district and the amount of any associated fees;
- whether the property is located in a private utility district and the amount of any associated fees;
- whether there is a mandatory HOA and information regarding associated fees and assessments;
- foreclosure information; and
- any "other defect(s)" affecting the property.

Statutory section amended 2003; form amended 2017.

[Okla. Stat. Ann. tit. 60, § 833 \(2019\); Okla. Real Estate Comm'n, Residential Property Condition Disclosure Statement \(Nov. 2017\)](#)

Oregon

Oregon, Agent's Obligations Regarding Seller's Required Disclosures

The representations contained in a seller's property disclosure statement and in any amendment to it are the representations of the seller only. The representations of the seller are not representations a real estate licensee engaged by the seller or buyer. A real estate licensee is not bound by or have any liability with respect to any representation, misrepresentation, omission, error or inaccuracy contained in the seller's property disclosure statement.

A real estate licensee representing a seller must inform the seller of the seller's duties created by Or. Rev. Stat. §§ 105.465—.490, and a licensee representing a buyer must inform the buyer of the buyer's rights under §§ 105.465—.490.

Section 696.870 amended 2001 § 105.480 amended 2003.

[Or. Rev. Stat. §§ 105.480, 696.870 \(2019\)](#)

Oregon, Flood-related Disclosures

The seller's property disclosure statement requires the following flood-related disclosures:

- whether there has been any material damage to the property or any of the property's structures from floods; and
- whether the property is in a designated floodplain, with a notice that flood insurance may be required for homes in a floodplain..

Amended 2019.

[Or. Rev. Stat. § 105.464 \(2019\)](#)

Oregon, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

In a real property sale, lease or rental, "a person may not disclose to any person that an occupant or owner of the real property has or died from a blood-borne infection."

Also, the following are among incidents that are not material facts to a real property transaction:

- that the real property or a neighboring property was the site of "a death by violent crime, by suicide or by any other manner";
- that the real property or a neighboring property was the site of a crime, political activity, religious activity, or any other act or occurrence that does not adversely affect the property's physical condition or title;
- that an owner or occupant had a blood-borne infection;
- that a registered sex offender lives in the area; and
- that a notice has been received that a neighboring property has been determined to be not fit for use.

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Sections 105.465—.490 apply to residential real property, unless the buyer indicates that he will use the property for purposes other than a residence for the buyer or his immediate family.

Section 105.465 amended 2003; § 659A.145 amended 2019; § 93.275 amended 2019.

[Or. Rev. Stat. §§ 93.275, 105.465\(1\); 659A.145 \(2019\)](#)

[Oregon, Seller's Disclosure Form](#)

Unless excluded by Or. Rev. Stat. §§ 105.470 or .475, a seller must deliver to each buyer who makes a written purchase offer for real property in Oregon a seller's property disclosure statement substantially in the form set forth in § 105.464(2).

Section 105.464 amended 2019; §§ 105.465, 105.470 and 105.475 amended 2003.

[Or. Rev. Stat. §§ 105.464, .465, .470, .475 \(2019\)](#)

Oregon, Unusual Disclosure Requirements

RADON

The seller's property disclosure statement provides that a seller must disclose the known presence of any radon gas on the property.

LEAD-BASED PAINT

The seller's property disclosure statement provides that a seller must disclose any known lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the prescribed form requires several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

The statutory disclosure form requires a seller to disclose whether the property is in a "designated slide or other geologic hazard zone," and whether the property has experienced any damage from "beach movements, earthquake, expansive soils or landslides."

SEISMIC RETROFIT

Effective January 1, 2018, the statutory disclosure form requires a seller to disclose whether the house was built before 1974 and, if so, whether it has been bolted to its foundation.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The statutory form requires a seller to disclose whether the property has ever been used as an illegal drug manufacturing or distribution site and, if so, whether a Certificate of Fitness was issued.

OTHER UNUSUAL REQUIREMENTS

Disclosure form requirements

The prescribed form requires a seller to disclose:

- any governmental study, zoning overlay, survey or notices that would affect the property;
- whether the property contains fill;
-

any substances that may be an environmental hazard, such as asbestos, formaldehyde, mold, fuel or chemical storage tanks;

- contaminated soil or water;
- any storage tanks; and
- any other material defects "that a prospective buyer should know about."

The statutory disclosure form also requires the seller to disclose whether the property:

- is an "unlawfully established unit of land"; and
- has been classified as "forestland-urban interface."

The disclosure form also requires a seller to disclose whether the property has carbon monoxide alarms.

Effective January 1, 2014, the state expanded the disclosure requirements related to the property's sewage system.

Water rights

Generally, if a transaction involves conveying real estate that includes a water right, the seller, upon accepting a purchase offer, must inform the purchaser in writing:

- "whether any permit, transfer approval order or certificate evidencing the water right is available"; and
- that the seller will deliver the document at closing, if it is available.

Woodstoves and fireplace inserts

The statutory disclosure form requires additional disclosures regarding woodstoves and fireplace inserts, including:

- the make;
- whether it was installed with a permit; and
- whether it has an EPA or DEQ certification label.

Voluntary energy disclosures

Oregon's regulations "provide a voluntary energy efficiency rating system for single family residences to encourage voluntary energy conservation and the voluntary use in real estate transactions."

Flood-related disclosures

The seller's property disclosure statement requires the following flood-related disclosures:

- whether there has been any material damage to the property or any of the property's structures from floods; and
- whether the property is in a designated floodplain.

Electric vehicle charging stations

In a planned community, an owner must disclose to a lot's prospective buyer the existence of a charging station and the owner's related statutory responsibilities as set forth in Or. Rev. Stat. § 94.762. Similarly, a condominium unit owner must disclose to a unit's prospective buyer the existence of a charging station and the unit owner's related responsibilities as set forth in Or. Rev. Stat. § 100.627.

Section 105.464 amended 2019; § 105.465 amended 2003; § 537.330 amended 2005; regulation amended 2011; §§ 94.762 and 100.627 amended 2015.

[Or. Rev. Stat. §§ 94.762; 100.627; 105.464, .465; 537.330 \(2019\); Or. Admin. R. 918-440-0030 \(2019\)](#)

Pennsylvania

Pennsylvania, Agent's Obligations Regarding Seller's Required Disclosures

An agent is not liable for a seller's violation of the disclosure statutes unless the agent had actual knowledge of a material defect that was either misrepresented or not disclosed. However, an agent representing a seller must:

- advise the seller of the seller's disclosure obligations; and

- provide the seller with a copy of the property disclosure statement form.

A licensee who represents a seller or a transaction licensee who has entered into an agreement with a seller must:

- advise the seller of his or her duty to disclose any known material defects by completing a property disclosure statement;
- provide the seller with a property disclosure statement that meets or exceeds the disclosures set forth in regulation 35.335a; and
- deliver, before the sale agreement is signed, a completed property disclosure statement or a property disclosure statement marked "refused."

A licensee who represents a buyer or a transaction licensee who has entered into an agreement with a buyer must:

- advise the buyer that the seller has a duty to provide a completed property disclosure statement; and
- assure that the completed property disclosure statement or a property disclosure statement marked "refused" was delivered to the buyer before the sale agreement is signed.

Licenses must disclose to a buyer in writing all known material defects that are not otherwise disclosed, but licenses are not required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

If the seller's agent provides the disclosure statement but the seller refuses to complete it, the "best practice would be for the seller's agent" to:

- have the sellers write "refused" on the disclosure statement;
- have sellers sign the statement; and
- provide the refused statement to the buyers.

Sections enacted 2000; FAQ dated 2009; regulation adopted 2010.

[68 Pa. Cons. Stat. §§ 7310, 7313\(c\) \(2019\); 49 Pa. Code § 35.284a \(2019\)](#)

Pennsylvania, Flood-related Disclosures

The disclosure statement provides for the following flood-related disclosures:

- whether the property is located in a FEMA flood zone;
- whether the seller is aware of "any past or present drainage or flooding problems affecting the property"; and

- whether the seller is aware of any drainage or flooding mitigation on the property.

Regulation amended 2016.

[49 Pa. Code § 35.335a \(2019\)](#)

Pennsylvania, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

The Pennsylvania disclosure laws apply to transfers of residential real property of one to four dwellings, whether by:

- sale;
- exchange;
- installment sales contract;
- lease with purchase options; or
- grant or transfer of a residential condominium or cooperative unit.

RELIANCE ON THIRD-PARTY REQUESTS

The delivery of required information by any of the following is deemed to comply with the statutory disclosure requirements:

- information from a public agency; and
- a written report prepared by a home inspector, contractor, or other licensed person dealing with matters within the scope of his expertise.

Sections enacted 2000.

[68 Pa. Cons. Stat. §§ 7103\(a\); 7309\(b\), \(c\) \(2018\)](#)

Pennsylvania, Seller's Disclosure Form

Unless exempt pursuant to 68 Pa. Cons. Stat. Ann. §§ 7103(b) or 7302, a seller must disclose to a buyer any known material defects in the property by completing a property disclosure statement that, at a minimum, satisfies the requirements of § 7304. A [Seller's Property Disclosure Statement](#) containing the minimum disclosure requirements is available on the Real Estate Commission's website and set forth in 49 Pa. Code § 35.335a. A form is also available at the Pennsylvania Association of Realtors website.

Statutory sections 7103, 7302, and 7303 enacted 2000; § 7304 amended 2015; regulation amended 2016; forms dated 2017.

[68 Pa. Cons. Stat. § 7303 \(2019\)](#); [Pa. Real Estate Comm'n, Seller's Property Disclosure Statement \(May 18, 2017\)](#); *see also* [68 Pa. Cons. Stat. Ann. §§ 7103\(b\), 7302, 7304 \(2019\)](#); [49 Pa. Code § 35.335a \(2019\)](#)

Pennsylvania, Unusual Disclosure Requirements

RADON

The disclosure form set forth in Pennsylvania's regulations requires the seller to disclose whether he or she is aware of any hazardous substances, including radon, among others, and whether the property has been tested for hazardous substances.

The recommended disclosure form also requires the seller to disclose:

- whether any radon gas tests have been performed;
- the results of any radon tests; and
- information regarding any radon removal system on the property.

LEAD-BASED PAINT

The disclosure form set forth in Pennsylvania's regulations requires the seller to disclose whether he or she is aware of any hazardous substances, including lead paint, among others, and whether the property has been tested for hazardous substances.

The recommended disclosure form also requires the seller to disclose:

- any knowledge of, and records and reports about, lead-based paint if construction began on the property before 1978; and
- any reports or records regarding lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, both forms require several environmental disclosures. (See Other Unusual Requirements below.)

For example, the recommended disclosure statement provides for the following environmental disclosures:

- whether the seller is aware of any existing hazardous substances on the property;
- whether the seller has received written notice regarding the presence of an environmental hazard or biohazard on his or her property or on adjacent property;
- whether the seller is aware of testing on the property for any other hazardous substances; and
- whether the seller is aware of "any other hazardous substances or environmental concerns that might impact" the property.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, both disclosure forms require the seller to disclose any "sliding, settling, earth movement, upheaval, subsidence, sinkholes or earth stability problems" that have occurred on or affect the property.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Form requirements

Generally, the seller must disclose:

- if he has any expertise in contracting, engineering, architecture, environmental assessment or other areas related to the property's construction and conditions;
- when the property was last occupied;
- soils, drainage, and flooding information; and
- the presence of hazardous substances.

More specifically, both disclosure forms require the seller to disclose:

-

any "movement, shifting, deterioration, or other problems" with the walls, foundations, or other structural components;

- any underground fuel tanks;
- any "fill or expansive soil";
- any mining, strip-mining, or other excavations;
- whether the property contains wetlands;
- any underground tanks;
- any hazardous substances, including asbestos, PCBs, or urea formaldehyde foam insulation;
- any "other environmental concerns that might impact upon the property"; and
- any material defects that are not disclosed elsewhere on the form.

The suggested form also provides for disclosure of:

- whether any structures are constructed with an Exterior Insulating Finishing System, including drivit or synthetic stucco, and any related problems; and
- any historic preservation restrictions or archeological designations associated with the property.

Private transfer fees

A contract for the sale of real property that is subject to a private transfer fee obligation must include a provision that:

- discloses the obligation's existence;
- describes the obligation; and
- states that private transfer fee obligations are subject to certain restrictions.

The suggested form also requires a seller to disclose whether he or she is aware of any tests for mold or indoor air quality, and what efforts have been taken to control or remediate mold.

If this disclosure is not made:

- the seller may not enforce the sale contract;
- the buyer is not liable to the seller for damages under the contract; and

- the buyer is entitled to the return of all deposits made in connection with the sale.

Soils and sinkholes

The disclosure statement must include disclosures regarding soils, drainage, boundaries, and, effective June 19, 2015, sinkholes.

Storm water facilities

Effective June 19, 2015, the property disclosure statement must include disclosures regarding the condition, if known, and the location of all storm water facilities, including a statement regarding whether ongoing maintenance of the facilities is the property owner's responsibility.

Statutory section 8106 enacted 2011; § 7304 amended 2015; regulation amended 2016.

[68 Pa. Cons. Stat. §§ 7304\(b\), 8106 \(2019\); 49 Pa. Code § 35.335a \(2019\); Pa. Real Estate Comm'n, Seller's Property Disclosure Statement \(May 18, 2017\)](#)

Puerto Rico

Puerto Rico, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located in the Puerto Rico statutes.

However, although not specifically related to *seller* disclosures, a licensee must notify the owner before he or she signs the brokerage contract and the prospective buyer before he or she executes a written option or purchase contract (and as a part of the contract) of the "need and convenience" of having a certified expert "perform a physical inspection of the real property as a part of the real estate transaction." The owner or prospective buyer must certify that he or she has received the broker's advice.

Section amended 2014.

P.R. Laws tit. 20, § 3054 (LexisNexis 2019)

Puerto Rico, Flood-related Disclosures

No relevant provisions were located.

Puerto Rico, Other Relevant Provisions

No relevant provisions were located in the Puerto Rico statutes.

Puerto Rico, Seller's Disclosure Form

No relevant provisions were located in the Puerto Rico statutes.

Puerto Rico, Unusual Disclosure Requirements

No generally relevant provisions were located in the Puerto Rico statutes. However, see P.R. Laws Ann. tit. 31, § 1255a (LexisNexis 2019) for required disclosures applicable only to prospective timeshare purchasers.

Rhode Island

Rhode Island, Agent's Obligations Regarding Seller's Required Disclosures

An agent may not communicate a buyer's offer until the buyer has received a copy of and signed a written receipt for the written disclosure. The agent is not liable for the accuracy or thoroughness of the seller's representations or for any error, inaccuracy, or omission unless he knew of the misrepresentation.

An agent must ensure compliance with all lead-based paint and existing or potential environmental lead exposure hazards disclosure requirements by:

- informing the seller or lessor about his or her disclosure obligations; and
-

ensuring that the seller or lessor has made all required disclosures or personally ensured compliance.

If an agent complies with the above requirements, he or she is not liable for the failure to disclose the presence of lead hazards known by a seller or lessor, but not disclosed to the agent.

Statutory section 5-20.8-2 amended 2019; § 5-20.8-9 enacted 1992; regulatory chapter amended 2018.

[R.I. Gen. Laws §§ 5-20.8-2, -9 \(2020\); 216 R.I. Code R. 50-15-3, § 3.8 \(2020\)](#)

Rhode Island, Flood-related Disclosures

The mandatory disclosure form must include information regarding flood plains and flood insurance.

Statutory section 5-20.8-2 amended 2019.

[R.I. Gen. Laws § 5-20.8-2 \(2020\)](#)

Rhode Island, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The fact or suspicion that real property may be "psychologically impacted" is not a material fact requiring disclosure. "Psychologically impacted" means an impact resulting from the fact that:

- an occupant is or has been suspected to be infected with HIV or diagnosed with AIDS, or any other disease that is "highly unlikely" to be transmitted through occupying a property; or

- the property was or has been suspected of being the site of a homicide, felony, or suicide.

RELIANCE ON THIRD-PARTY REPORTS

Any information required to be disclosed to a prospective buyer by a public agency is deemed to comply with the requirements of § 5-20.8-7, and relieves the seller or agent of any further duty as to that item. Similarly, the delivery of a report or opinion "prepared by an engineer, land surveyor, geologist, home inspector, pest control operator, contractor, or other expert," dealing with matters within the scope of his or her license or expertise, complies with the exemption provided in § 5-20.8-9.

Sections enacted 1992; § 5-20.8-8 amended 1996.

[R.I. Gen. Laws §§ 5-20.8-6, -7, -8 \(2020\)](#)

Rhode Island, Seller's Disclosure Form

Subject to the exemptions set forth in R.I. Gen. Laws § 5-20.8-3, a real estate seller must deliver a written disclosure to the buyer and each agent. The written disclosure must comply with the requirements set forth in § 5-20.8-2(b) and must state all known deficient conditions. The seller may use the form approved by the Commission or a form substantially conforming to the requirements of § 5-20.8-2.

A seller or lessor must also include in each contract for the sale or lease of a residential dwelling a Lead Warning Statement and disclosure acknowledgment form.

Section 5-20.8-2 amended 2019; § 5-20.8-3 enacted 1992; regulatory chapter amended 2018.

[R.I. Gen. Laws § 5-20.8-2 \(2020\)](#); *see also* [R.I. Gen. Laws § 5-20.8-3 \(2020\)](#); [216 R.I. Code R. 50-15-3, § 3.8 \(2020\)](#)

Rhode Island, Unusual Disclosure Requirements

RADON

The disclosure form provides that a seller must disclose information regarding radon, and that the form must include:

- the test and testing company; and
- the quote, "Radon has been determined to exist in the State of Rhode Island. Testing for the presence of radon in residential real estate prior to purchase is advisable."

LEAD-BASED PAINT

A seller must:

- provide a purchaser or lessee with a specified EPA educational pamphlet, containing a Rhode Island insert;
- disclose to the purchaser and each agent any known information (including a copy of any outstanding violation notice) about the presence of lead hazards on the property, including the basis for determining that lead exposure hazards or potential lead exposure hazards exist and the location of the hazards or potential hazards; and
- provide the purchaser with any available records pertaining to lead hazards, including any Comprehensive or Limited Environmental Lead Inspection Reports,

Notification of Annual Reinspection Requirement forms, or other records containing lead hazard information.

The seller must also include in each contract for the sale or lease of a residential dwelling, a "Lead Warning Statement" and disclosure acknowledgment form (available from the real estate department) that is in accordance with federal law. The seller or lessor must retain a copy of the disclosure acknowledgment form for at least three years.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

No specifically relevant provisions were located.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by form

The disclosure form must disclose:

- any hazardous waste, asbestos, or other contaminants;
- mold "(Type, repairs, alterations, modifications);"
- ventilation system modifications;
- moisture penetration and damage;
- any wood-burning stoves; and
- the location of coastal wetlands, bays, freshwater wetlands, ponds, marshes, river banks or swamps and the associated buffer areas that may impact future property development.

Every purchase contract for real estate served by a private well must provide the potential purchaser a 10-day period to test the well, unless the parties mutually agree upon a different time period.

A 2004 statutory amendment provided that a seller must:

-

provide the buyer with a copy of any previous surveys; and

- notify the buyer of any known easements, encroachments, covenants or restrictions.

If the seller knows the real estate has a conservation easement or other conservation or preservation restriction, the seller must disclose that information and provide the buyer with a copy of any documentation in the seller's possession regarding the restrictions.

The statutory disclosure requirements include the following cesspool notice:

"Potential purchasers of real estate in the state of Rhode Island are hereby notified that many properties in the state are still serviced by cesspools as defined in Rhode Island general law chapter 19.15 of title 23 (The Rhode Island cesspool act of 2007). Cesspools are a substandard and inadequate means of sewage treatment and disposal, and cesspools often contribute to groundwater and surface water contamination. Requirements for abandonment and replacement of high-risk cesspools as established in chapter 19.15 of title 23 are primarily based upon a cesspool's nontreatment of wastewater and the inherent risks to public health and the environment due to a cesspool's distance from a tidal water area, or a public drinking water resource. Purchasers should consult chapter 19.15 of title 23 for specific cesspool abandonment or replacement requirements. An inspection of property served by an on-site sewage system by a qualified professional is recommended prior to purchase. Pursuant to § 5-20.8-13, potential purchasers shall be permitted a ten-day (10) period to conduct an inspection of a property's sewage system to determine if a cesspool exists, and if so, whether it will be subject to the phase-out requirements as established in chapter 19.15 of title 23."

Failure to provide "previous inspection results of a cesspool servicing the property entitles the purchaser to void the purchase and sale agreement by providing notice in writing to the seller prior to the transfer of the title at closing."

The disclosure must "inform the buyer that any farm(s) that may be in the municipality are protected by the right to farm law."

Inspection rights

A real estate sale contract must provide a potential purchaser a 10-day inspection period before the purchaser becomes obligated under the contract. The parties may mutually agree upon a different time period, and a potential purchaser may waive this inspection right in writing.

Statutory section 5-20.8-2 amended 2019; § 5-20.8-11 enacted 1994; § 5-20.8-12 amended 2002; § 5-20.8-4 amended 2012; § 5-20.8-13 enacted 2007; regulatory chapter amended 2018.

[R.I. Gen. Laws §§ 5-20.8-2, -4, -11, -12, -13 \(2020\); 216 R.I. Code R. 50-15-3, § 3.8 \(2020\)](#)

South Carolina

South Carolina, Agent's Obligations Regarding Seller's Required Disclosures

A listing agent or licensee must inform each owner in writing of the owner's obligations contained in article 27-50. If the listing agent performs this duty, he is not liable for the owner's refusal or failure to provide a prospective purchaser with a disclosure statement. A licensee is not liable to a purchaser if:

- the owner provides a disclosure form that contains false, incomplete, or misleading information; and
- the licensee did not know or have reason to suspect the information was false, incomplete, or misleading.

A licensee operating as a transaction broker must disclose material adverse facts that affect the transaction or the value or condition of the property and that are not readily ascertainable.

A real estate brokerage and its licensees are immune from liability for any act or omission related to disclosing information under chapter 23-3 (regarding the sex offender registry) if the brokerage

or its licensees timely provide to their clients and customers written notice that they may obtain information about the sex offender registry and registered persons by contacting the county sheriff. The notice may be included in the listing agreement, the buyer representation agreement, or the sales agreement.

A licensee need not discover latent defects. No cause of action may be brought against a licensee who has truthfully disclosed to a buyer a known material defect.

No cause of action may be brought against a licensee for information contained in reports or opinions prepared by certain experts, including, among others, engineers, land surveyors, home inspectors and termite inspectors. A licensee, brokerage firm and the broker-in-charge are not liable to a party for providing the party with false or misleading information if the information was provided to the licensee by the client or customer and the licensee did not know the information was false or misleading.

Section 27-50-70 enacted 2002; § 40-57-350 amended 2016, effective January 1, 2017; § 23-3-525 enacted 2005.

[S.C. Code §§ 27-50-70; 40-57-350; 23-3-525 \(2019\)](#)

South Carolina, Flood-related Disclosures

The state's mandatory disclosure form requires the following flood-related disclosures:

- whether the owner has actual knowledge or notice concerning "flood hazards, wetlands, or flood hazard designations affecting the property"; and
- whether the owner has actual knowledge or notice regarding flood insurance covering the property.

Form revised 2018, effective Jan. 1, 2019.

[State of South Carolina Residential Property Condition Disclosure Statement and Addendum \(rev. Nov. 2018\)](#)

South Carolina, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Article 27-50 applies to transfers of residential real property consisting of one to four dwelling units by:

- sale or exchange;

- installment land sales contract; or

- lease with a purchase option.

PSYCHOLOGICALLY IMPACTED PROPERTY

An owner and his or her agent need not disclose the fact or suspicion that a property may be or is psychologically affected, including:

- that the property is or was occupied by an individual infected with a virus or other disease that is highly unlikely to be transmitted through his occupancy of the dwelling;

- that an occupant's death has occurred or the manner of the death;

- any offsite condition that does not directly impact the property; or
- any psychological impact that has no material impact on the property's physical condition.

However, a buyer may have an action against an owner who makes an intentional misrepresentation in response to a purchaser's direct inquiry regarding psychological impacts, offsite conditions, or stigmas associated with the property.

Sections 27-50-20 and 27-50-90 enacted 2002; § 40-57-740 amended 2016, effective January 1, 2017.

[S.C. Code §§ 27-50-20, -90; 40-57-740 \(2019\)](#)

South Carolina, Seller's Disclosure Form

Unless exempt pursuant to § 27-50-30, a property owner must provide a purchaser with a written disclosure statement, which must contain the language and be in the form promulgated by the Commission. The [South Carolina Residential Property Condition Disclosure Statement and Addendum](#) are available online at the South Carolina Real Estate Commission's website. Note that the Addendum, which relates to HOAs and similar entities, is, effective January 1, 2019, attached to the Disclosure Statement, rather than a separate document.

Statutory section 27-50-40 amended 2018; § 27-50-30 amended 2003; *Disclosure Statement* revised 2018, effective Jan. 1, 2019.

[S.C. Code §§ 27-50-30, -40\(A\) \(2019\); State of South Carolina Residential Property Condition Disclosure Statement and Addendum \(rev. Nov. 2018\)](#)

South Carolina, Unusual Disclosure Requirements

RADON

The mandatory disclosure statement provides that a seller must disclose the presence of radon gas on the property.

LEAD-BASED PAINT

The mandatory disclosure statement provides that a seller must disclose the presence of lead-based paint, and lead hazards, on the property.

LOCAL AIRPORTS

Research located no specific provision requiring a seller to disclose the location of local airports. Although the mandatory form previously required the seller to disclose whether any nuisances, such as noise, odor, or smoke, affect the property, the form effective August 1, 2013, does not require a nuisance disclosure.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However the state's disclosure form requires disclosure of soil stability or "underground problems" affecting the property.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The state's form requires disclosure of environmental contamination problems from methamphetamine production, among other things.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures required by disclosure statement

The mandatory disclosure statement requires the seller to disclose:

- the presence of asbestos, methane gas, storage tanks, hazardous or toxic materials, and other environmental contamination; toxic mold, asbestos, methane gas, formaldehyde, corrosion-causing sheetrock, storage tanks, hazardous materials, toxic materials, environmental contamination, or other environmental contamination;
- previous fire damage;
- designation as a historic building, landmark, site or location within a local historic or other restrictive district, which may limit changes, improvements or demolition of the property;
- whether the property is subject to governance of a homeowners association which carries certain rights and obligations that may limit the use of the property and involve financial obligations, and if the answer is yes, the Addendum must be completed;
- the existence of a meter conservation charge that applies to the property's electricity or natural gas service.

The seller must also describe any green energy, recycling, sustainability or disability features on the property.

The owner or developer of real property in a residential improvement district must disclose to prospective purchasers of residential real property in the improvement district:

- that the property is subject to an improvement district assessment; and
- the assessment's maximum annual amount and duration.

Homeowners' associations

If property is subject to a homeowners' association or similar organization, the owner must provide a Residential Property Condition Disclosure Statement Addendum.

Statutory section 27-50-40 amended 2018; § 6-35-95 enacted 2008; *Disclosure Statement* revised 2018, effective Jan. 1, 2019.

[S.C. Code §§ 6-35-95; 27-50-40\(A\) \(2019\); *State of South Carolina Residential Property Condition Disclosure Statement* \(rev. Nov. 2018\)](#)

South Dakota

South Dakota, Agent's Obligations Regarding Seller's Required Disclosures

The mandatory Seller's Property Condition Disclosure Statement authorizes an agent representing any party in a transaction to provide a copy of the disclosure statement to any person in connection with an anticipated sale of the property.

Additionally, a limited agent must disclose any adverse material facts to a client and a transaction broker must make such disclosure to a customer. An "adverse material fact" is "information that negatively affects the value of the property or a party's ability to perform its obligations in a real

estate transaction,” including, among other things, any environmental hazards affecting the property which are required by law to be disclosed and any material defects in the property.

Sections 36-21A-125, 36-21A-140, 36-21A-144 enacted 1998; § 43-4-44 amended 2011, amended 2020.

[S.D. Codified Laws §§ 36-21A-125, -140, -144 \(2019\); § 43-4-44](#) (as amended by [2020 S.D. Sess. L. H.B. 1178](#))

South Dakota, Flood-related Disclosures

The state's mandatory disclosure form requires the following flood-related disclosures:

- whether the property is located "in a flood plain"; and
- whether the seller is aware of any past or present damage to the property from a flood.

Section amended 2011, amended 2020.

[S.D. Codified Laws § 43-4-44](#) (as amended by [2020 S.D. Sess. L. H.B. 1178](#))

South Dakota, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

The mandatory disclosure form requires the seller to disclose whether during the seller's ownership a homicide or suicide occurred on the property.

Section amended 2011 and 2020.

[S.D. Codified Laws § 43-4-44](#) (as amended by [2020 S.D. Sess. L. H.B. 1178](#))

South Dakota, Seller's Disclosure Form

Unless exempt pursuant to § 43-4-43, a residential real property seller must furnish to a buyer a completed copy of the [Seller's Property Condition Disclosure Statement](#) in the form set forth in § 43-4-44.

Section 43-4-38 amended 1995; § 43-4-43 amended 1994; § 43-4-44 amended 2011, amended 2020.

[S.D. Codified Laws §§ 43-4-38, -44](#) (as amended by [2020 S.D. Sess. L. H.B. 1178](#)); *see also* [S.D. Codified Laws § 43-4-43 \(2019\)](#)

South Dakota, Unusual Disclosure Requirements

RADON

The mandatory Seller's Property Condition Disclosure Statement requires the seller to disclose the existence of and tests performed regarding radon gas in the house or well.

LEAD-BASED PAINT

The mandatory disclosure statement requires the seller to disclose the existence of and tests performed regarding lead paint on the property. The Real Estate Commission website also has a separate seller's [lead-based paint disclosure form](#).

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

Statutory sections added in 2004 require a seller of residential premises to disclose any known prior manufacture of methamphetamines on the property. The disclosure statement, as revised in 2005, requires the seller to disclose both the existence of and tests performed regarding the production of methamphetamines on the property.

OTHER UNUSUAL REQUIREMENTS

Unusual disclosures on mandatory statement

The mandatory Seller's Property Condition Disclosure Statement requires the seller to disclose:

- any federally protected wetlands located upon any part of the property;
- whether fire-retardant treated plywood may have been used on the property;

- whether the property has ever been damaged; and
- the existence of and tests performed regarding any hazardous conditions, including methane gas, lead paint, radon gas (house or well), radioactive material, a landfill mineshaft, expansive soil, mold, toxic materials, urea formaldehyde foam or asbestos insulation, buried fuel or chemical storage tanks, fire retardant treated plywood, or methamphetamines.

Runoff

A seller must also disclose whether he or she is "aware of any drainage, leakage, or runoff from any sewer, septic tank, storage tank, or drain on the property into any adjoining lake, stream, or waterway."

Liens

The seller's disclosure form also requires a seller to disclose whether any materials or services have been provided in the past 120 days that would create a lien against the property.

Energy efficiency of new residential buildings

A builder or seller of a previously unoccupied new residential building with one to four family units must disclose to the buyer or prospective buyer information regarding the building's energy efficiency. The builder or seller must provide the disclosure form:

- before the buyer signs the purchase contract;

- before closing if changes have occurred or are requested; and
- at any other time upon request.

If a new residential building is "completed and suitable for occupancy" but not sold, the builder or seller must make the completed disclosure form available to the buyer or prospective buyer:

- when the residence is shown; and
- at any other time upon request.

The disclosure generally must be on the form prepared and disseminated by the South Dakota Real Estate Commission. However, if the new residential building is subject to "both the National Manufactured Housing Construction and the Safety Standards Act pursuant to the United States Code, title 42 section 5403 and the Federal Trade Commission regulation on labeling and advertising of home insulation pursuant to 16 C.F.R. section 460.16," the builder or seller may disclose the information that must be disclosed pursuant to the federal act and regulation, instead of the above disclosures.

The state's mandatory disclosure form, the "Builder's Energy Efficiency Disclosure Statement," is set forth in S.D. Codified Laws § 11-10-10.

Private transfer fees

A seller must disclose a private transfer fee as follows:

- for residential real property transfers, the seller must disclose the obligation using the property condition disclosure statement set forth in § 43-4-44; and
- for real property transfers not subject to the above disclosure requirements, the seller must furnish a written statement disclosing the existence of any private transfer fees, which statement must include a description of the private transfer fee and a statement that private transfer fees are subject to certain prohibitions. The statement must include the following language:

A private transfer fee obligation has been imposed with respect to this property. A private transfer obligation may lower the value of this property. State law prohibits the creation of private transfer fee obligations pursuant to § 43-4-49 and requires certain notice procedures to be followed with respect to private transfer fee obligations pursuant to §§ 43-4-52 to 43-4-57, inclusive.

Section 43-4-44 amended 2011 and 2020; §§ 11-10-8 and 11-10-9 enacted 2009; § 11-10-10 amended 2011; § 43-4-51 enacted 2011.

[S.D. Codified Laws §§ 11-10-8, -9, -10; 43-4-44](#) (as amended by [2020 S.D. Sess. L. H.B. 1178](#)), [-51 \(2019\)](#)

Tennessee

Tennessee, Agent's Obligations Regarding Seller's Required Disclosures

A listing broker representing an owner of residential real property has a duty to inform each owner of the owner's rights and obligations under part 66-5. A licensee representing a purchaser, or, if the purchaser is not represented by a licensee, the licensee representing a residential real estate owner and dealing with the purchaser, has a duty to inform each purchaser of his rights and obligations under part 66-5. If a licensee performs this duty, he is not liable for any failure to disclose information regarding the property.

Additionally, a real estate licensee is subject to a cause of action for damages or equitable relief for failing to disclose adverse facts of which the licensee has actual knowledge or notice. "Adverse facts" are defined as "conditions or occurrences generally recognized by competent licensees that

significantly reduce the structural integrity of improvements to real property, or present a significant health risk to occupants of the property.”

Section enacted 1994.

Tenn. Code § 66-5-206 (LexisNexis 2018)

Tennessee, Flood-related Disclosures

Tennessee's disclosure form requires the following flood-related disclosures:

- whether the seller is aware of flooding, drainage, or grading problems;
- whether there is any requirement that flood insurance be maintained on the property; and
- whether there has been property or structural damage from a flood.

The state's disclosure form is available online as a link from Tenn. Code § 66-5-210 (LexisNexis 2019)

Tennessee, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURES REQUIREMENTS

Part 66-5 applies only to transfers of property with one to four dwelling units, by:

- sale;
- exchange;

- installment land sales contract; or
- lease with option to buy.

PSYCHOLOGICALLY IMPACTED PROPERTY

No cause of action exists against an owner or licensee for failure to disclose that:

- an occupant of the property was afflicted with HIV or another disease that is unlikely to be transmitted through the occupancy of a dwelling place;
- an act or occurrence that had no effect on the physical structure, its physical environment, or the improvements occurred on the property; or
- a homicide, felony or suicide occurred on the property.

RELIANCE ON THIRD-PARTY REPORTS

Delivery by a public agency or delivery by the owner of a report prepared by a licensed engineer, land surveyor, geologist, insect control expert, or home inspection expert, dealing with matters within his expertise, may satisfy the disclosure requirements.

"No cause of action may be instituted against a real estate licensee for information contained in any reports or opinions prepared by an engineer, land surveyor, geologist,

wood destroying inspection control expert, termite inspector, mortgage broker, home inspector, or other home inspection expert."

Section 66-5-201 amended 2000; §§ 66-5-204 and -207 enacted 1994; § 66-5-208 amended 2003.

Tenn. Code §§ 66-5-201; -204(b), (c); -207, -208 (LexisNexis 2019)

Tennessee, Seller's Disclosure Form

Unless exempt pursuant to § 66-5-209, the residential property owner must furnish to a purchaser either:

- a residential property disclosure statement, which must include all items listed in the form set forth in § 66-5-210; or
- a residential property disclaimer statement stating that the owner makes no representations or warranties as to the property's condition and that purchaser will be receiving the real property "as is."

A disclaimer statement is permitted only if the purchaser waives the required disclosures.

The state's disclosure form is available online as a link from Tenn. Code § 66-5-210 (LexisNexis 2019). The Notice of Methamphetamine Lab Quarantine form is available online as a link from Tenn. Code § 66-212-507 (LexisNexis 2015).

Section 66-5-202 enacted 1994; § 66-5-209 amended 2000; § 68-212-507 enacted 2005; § 66-5-210 amended 2008.

Tenn. Code §§ 66-5-202, -210; 68-212-507 (LexisNexis 2019); *see also* Tenn. Code § 66-5-209 (LexisNexis 2019)

Tennessee, Unusual Disclosure Requirements

RADON

The statutory form requires a seller to disclose whether he is aware of any substances or materials that may be an environmental hazard on the property, including radon gas.

LEAD-BASED PAINT

The statutory form requires a seller to disclose whether he is aware of any materials that may be an environmental hazard on the property, including lead-based paint.

LOCAL AIRPORTS

Research located no provision specifically requiring a seller to disclose the location of local airports, but the statutory form requires a seller to disclose any "neighborhood noise problems or other nuisances."

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the statutory form requires a seller to disclose whether he is aware of:

- any "settling from any cause, or slippage, sliding or other soil problems"; and
- any property or structural damage from earthquake or landslides.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

If any real property is quarantined due to the manufacture of methamphetamine, the local law enforcement agency will file a "Notice of Methamphetamine Lab Quarantine" with the county register, and the register must record the notice. The statute does not require any other form of drug lab disclosure.

OTHER UNUSUAL REQUIREMENTS

Requirements on statutory form

The statutory form requires a seller to disclose whether he is aware of:

- substances or materials that may be an environmental hazard on the property, including asbestos, fuel or chemical storage tanks, or contaminated soil or water;
- any landfill on the property;
-

damage from fire or floods; and

- any exterior wall covered with exterior insulation and finish systems (EIFS), also known as "synthetic stucco"; and, if so, whether there has been a recent inspection to determine whether the structure has excessive moisture accumulation or moisture-related damage.

Impact fees

In transfers involving the first sale of a residential dwelling, the owner must furnish to the purchaser a statement disclosing the amount of any impact fees or adequate facilities taxes paid to any city or county.

Wells and soil tests

A seller must, before entering into a contract with a buyer, disclose in the contract itself or in writing (with a receipt acknowledgement):

- the "presence of any known exterior injection well"; and
- the results of "any known percolation test or soil absorption rate performed on the property that is determined or accepted by the department of environment and conservation."

Moved residence

A seller, before entering into a contract with a buyer, must disclose whether a single family residence located on the property has been moved from one foundation to another, if known.

Planned unit development restrictive covenants, bylaws, and master deeds

An owner of residential property located in a planned unit development must:

- disclose if the property is located in a planned unit development; and
- upon request, make available a copy of the development's restrictive covenants, homeowner bylaws, and master deed.

The owner must make the above disclosures before entering into a contract with a buyer. The disclosure must:

- be contained in the contract itself or in a writing; and
- include an acknowledgement.

Obligation to connect to public sewer system

In any transfer by sale, exchange, installment land sales contract, or lease with option to buy residential real property consisting of not less than one nor more than four dwelling units, including site-built and nonsite-built homes, for which a permit was issued and a subsurface sewage disposal system installed, whether or not the transaction is consummated with the assistance of a licensed real estate broker or affiliate broker, the potential future obligation to connect to the public sewer system must be disclosed by the seller to the purchaser.

Sinkholes

As of July 1, 2015, a seller, before entering into a contract with a buyer, must disclose in the contract or in writing, including acknowledgement of receipt, the presence of any known sinkhole on the property. In this context, "sinkhole" means "a subterranean void created by the dissolution of limestone or dolostone strata resulting from groundwater erosion causing a surface subsidence of soil, sediment, or rock."

Section 66-5-210 amended 2008; §§ 66-5-211 and 68-212-507 enacted 2005; § 66-5-213 enacted 2009; § 66-5-212 amended 2015; § 68-221-409 amended 2019.

Tenn. Code §§ 66-5-210, -211, -212, -213; 68-212-507; 68-221-409 (LexisNexis 2019)

Texas

Texas, Agent's Obligations Regarding Seller's Required Disclosures

No specifically relevant provisions were located.

Note, however, that a licensee may be disciplined by the Real Estate Commission fails to disclose to a potential buyer a significant defect, including a latent structural defect, known to the license holder that would be a significant factor to a reasonable and prudent buyer in making a decision to purchase real property.

Amended 2015.

[Tex. Occ. Code § 1101.652\(b\)\(3\), \(4\) \(2019\)](#)

Texas, Flood-related Disclosures

The state's statutory seller's disclosure form requires the following flood-related disclosures:

"6. Are you (Seller) aware of any of the following conditions?* Write Yes (Y) if you are aware, write No (N) if you are not aware.

Present flood insurance coverage

Previous flooding due to a failure or breach of a reservoir or a controlled or emergency release of water from a reservoir

Previous water penetration into a structure on the property due to a natural flood event

Write Yes (Y) if you are aware and check wholly or partly as applicable, write No (N) if you are not aware.

Located () wholly () partly in a 100-year floodplain (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)

Located () wholly () partly in a 500-year floodplain (Moderate Flood Hazard Area-Zone X (shaded))

Located () wholly () partly in a floodway

Located () wholly () partly in a flood pool

Located () wholly () partly in a reservoir

If the answer to any of the above is yes, explain."

"7. Have you (Seller) ever filed a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program (NFIP)?* Yes No. If yes, explain."

"*Homes in high risk flood zones with mortgages from federally regulated or insured lenders are required to have flood insurance. Even when not required, the Federal Emergency Management Agency (FEMA) encourages homeowners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure(s) and the personal property within the structure(s)."

"8. Have you (Seller) ever received assistance from FEMA or the U.S. Small Business Administration (SBA) for flood damage to the property? Yes No. If yes, explain."

Before the purchaser signs an executory contract, the seller must also provide the purchaser with a written notice that indicates, among other items, whether the property is in a floodplain.

Section 5.069 amended 2001; § 5.008 amended 2019.

[Tex. Prop. Code §§ 5.008, .069 \(2019\)](#)

Texas, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

Neither a seller nor his agent must disclose information related to:

- whether a death unrelated to the property's condition occurred on the property; or
- whether a previous occupant has or may have AIDS or HIV.

Section amended 2019.

[Tex. Prop. Code § 5.008\(c\) \(2019\)](#)

Texas, Seller's Disclosure Form

Unless exempt pursuant to § 5.008(e), a seller of residential real property with no more than one dwelling unit must give the buyer:

- a written notice in the form of the [Seller's Disclosure Notice](#) set forth in § 5.008(b); or

- a substantially similar written notice that contains at least all of the items prescribed by § 5.008.

Section amended 2019.

[Tex. Prop. Code § 5.008\(a\), \(e\) \(2019\)](#)

Texas, Unusual Disclosure Requirements

RADON

The statutory form requires the seller to disclose any radon gas on the property.

LEAD-BASED PAINT

The statutory form requires the seller to disclose any lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports. However, effective September 1, 2017, the disclosure form contains the following statement:

This property may be located near a military installation and may be affected by high noise or air installation compatible use zones or operations. Information relating to high noise and compatible use zones is available in the most recent Air Installation Compatible Use Zone Study or Joint Use Study prepared for a military installation and may be accessed on the Internet website of the military installation and of the county and any municipality in which the military installation is located.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Although the statutory form does not explicitly require the seller to disclose whether the property is located in an earthquake zone, the seller must disclose and explain any landfill, settling, soil movement, and fault lines.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

The state's statutory form requires a seller to disclose whether he or she is aware that the premises were previously used to manufacture methamphetamines.

OTHER UNUSUAL REQUIREMENTS

Statutory form requirements

The statutory form requires the seller to disclose any of the following located on the property:

- hazardous or toxic waste;

- asbestos;

- urea formaldehyde insulation;

- aluminum wiring;
- previous fires;
- subsurface structures or pits;
- any condition on the property that materially affects an individual;s physical health or safety;
- natural or liquid propane gas; and
- as of September 1, 2013, a "rainwater harvesting system located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source."

Effective January 1, 2016, the seller must also indicate whether any portion of the property is located in a groundwater conservation or subsidence district.

A seller must also give the buyer:

- written notice, using the statutory language set forth in § 5.011, that if the property is located outside the limits of a municipality, it may be annexed;
-

if applicable, notice pursuant to § 5.012 regarding obligations related to membership in a property owners' association; and

- if applicable because the property is unimproved and to be used for residential purposes, a written notice pursuant to § 5.013 disclosing the location of pipelines.

Public improvement district assessments

A seller of residential real property located in a public improvement district that consists of no more than one dwelling must give the purchaser a written notice of any obligation to pay public improvement district assessment. The form must be "substantially similar" to the form provided by statute.

Safety items

The Texas statutory form requires the following safety-related items:

- disclosure regarding whether the property has a smoke detector, a smoke detector for the hearing-impaired, a carbon monoxide alarm or an emergency escape ladder;
- disclosure regarding whether the property has smoke detectors installed in accordance with Chapter 766 of the Health and Safety Code; and
- the buyer's acknowledgement or waiver of his or her right to have smoke detectors installed.

The form also includes a description of the state's laws regarding these safety-related items.

Coastal property

The disclosure form must contain the following notice relevant to coastal property:

If the property is located in a coastal area that is seaward of the Gulf Intracoastal Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the property may be subject to the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63, Natural Resources Code, respectively) and a beachfront construction certificate or dune protection permit may be required for repairs or improvements. Contact the local government with ordinance authority over construction adjacent to public beaches for more information.

Warranty exemptions

For residential property in which the improvements began on or after September 1, 2007, the seller of residential real property that is exempt from Title 16 pursuant to § 401.005 must give the buyer a written notice regarding warranties on or before the effective date of a binding contract to purchase the property, which notice must read "substantially" as follows:

NOTICE OF NONAPPLICABILITY OF CERTAIN WARRANTIES AND BUILDING AND PERFORMANCE STANDARDS

The property that is subject to this contract is exempt from Title 16, Property Code, including the provisions of that title that provide statutory warranties and building and performance standards.

Liens

Subject to certain specified exceptions, a person may not convey or enter into a contract to convey a residential real property interest that will be encumbered by a recorded lien at the time of conveyance unless, on or before the seventh day before the earlier of the effective date of the conveyance or the execution of a purchase agreement or other contract, the person provides the buyer and each lienholder a separate written disclosure statement in at least 12-point type that includes:

- specific information regarding the lien; and

- the following notice:

WARNING: ONE OR MORE RECORDED LIENS HAVE BEEN FILED THAT MAKE A CLAIM AGAINST THIS PROPERTY AS LISTED BELOW. IF A LIEN IS NOT RELEASED AND THE PROPERTY IS CONVEYED WITHOUT THE CONSENT OF THE LIENHOLDER, IT IS POSSIBLE THE LIENHOLDER COULD DEMAND FULL PAYMENT OF THE OUTSTANDING BALANCE OF THE LIEN IMMEDIATELY. YOU MAY WISH TO CONTACT EACH LIENHOLDER FOR FURTHER INFORMATION AND DISCUSS THIS MATTER WITH AN ATTORNEY.

Seller's Disclosure Notice

See Tex. Prop. Code Ann. § 5.069 for a *Seller's Disclosure Notice* that a seller must provide before a purchaser signs an executory contract for residential property that will be the purchaser's (or family member's) residence. The seller must also provide certain tax payment, insurance coverage, and financing disclosures.

Single blockable main drain in a pool, hot tub, or spa

A residential real property seller must disclose whether the property has a hazardous drain in a swimming pool, hot tub, or spa. The disclosure form specifically requires disclosure of "Single Blockable Main Drain in Pool\Hot Tub\Spa," which is a drain type that may "cause a suction entrapment hazard for an individual."

Private transfer fees

The seller of real property that may be subject to a private transfer fee must provide written notice to a potential purchaser stating that the obligation may be governed by subchapter G of chapter 5 of the Property Code.

Water fluctuation notice

Before the effective date of an executory contract involving the sale of residential or commercial real property adjoining an impoundment of water that has a storage capacity of at least 5,000 acre-

feet at the impoundment's normal operating level, the seller must provide the purchaser with a written water-level fluctuation notice.

Section 5.011 enacted 1999; §§ 5.013, 5.069, and 5.071 amended 2001; § 5.014 amended 2009; §§ 5.018 (regarding warranties) and 5.016 (regarding liens) enacted 2007; § 5.012 amended 2011; § 5.205 enacted 2011; § 5.008 amended 2017; § 5.070 amended 2015.

[Tex. Prop. Code §§ 5.008, .011, .012, .013, .014, .016, .018, .019, .069, .070, .071, .205 \(2019\)](#)

Utah

Utah, Agent's Obligations Regarding Seller's Required Disclosures

No generally applicable provisions were located.

A real estate professional is not liable for a real property owner or lessor making or failing to make the disclosure required by the state's "Disclosure of Methamphetamine Contaminated Property Act," unless the real estate professional is also the property's owner or lessor.

An individual licensee offering a residential property for sale must disclose "the source on which the licensee relies for any square footage data" that will be used to market the property.

Section enacted 2009; regulatory chapter amended 2018.

[Utah Code § 57-27-202 \(2018\); Utah Admin. Code r. 162-2f-401a \(2019\)](#)

Utah, Flood-related Disclosures

No relevant provisions were located.

Utah, Other Relevant Provisions

PSYCHOLOGICALLY IMPACTED PROPERTY

A real property owner's failure "to disclose that the property being offered for sale is stigmatized is not a material fact that must be disclosed." Neither the owner nor his or her agent is liable for failing to disclose that a property is "stigmatized."

Section enacted 1991.

[Utah Code § 57-1-37 \(2019\)](#)

Utah, Seller's Disclosure Form

Research located no Utah statutes or regulations requiring a real estate seller to disclose information to a prospective buyer on a specified form. However, Utah regulations reference a standard form for disclosures regarding lead-based paint, which form is an addendum to a real estate purchase contract. The [Disclosure and Acknowledgment Regarding Lead-Based Paint and/or Lead-Based Paint Hazards](#) form is available online.

Regulatory chapter amended 2018.

[Utah Admin. Code r. 162-2f-401f \(2019\)](#)

Utah, Unusual Disclosure Requirements

RADON

No relevant statutory or regulatory provisions were located. However, a 2013 concurrent resolution called upon real estate licensees to "use their access to buyers and sellers of real estate to inform them, by use of a radon-specific Buyers Disclosure and Acknowledgment form, of the dangers and risks of radon exposure, encourage testing and remediation, and educate the public about the dangers of radon."

LEAD-BASED PAINT

Utah regulations reference a standard form for disclosures regarding lead-based paint, which form is an addendum to a real estate purchase contract.

LOCAL AIRPORTS

No relevant provisions were located.

LOCAL SUPERFUND SITES

No relevant provisions were located.

EARTHQUAKE ZONES

No relevant provisions were located.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A real property owner or lessor who knows that a property is "currently contaminated from the use, storage, or manufacture of methamphetamines" must disclose in a real property lease, conveyance, or other transaction related to the contaminated property, that the property is contaminated. However, this requirement is "subject to" the state's law that provides that an owner's failure "to disclose that the property being offered for sale is stigmatized is not a material fact that must be disclosed."

OTHER UNUSUAL REQUIREMENTS

No relevant provisions were located.

Section 57-1-37 enacted 1991; § 57-27-201 enacted 2009; regulatory chapter amended 2018; resolution adopted 2013.

[Utah Code §§ 57-1-37, -27-201 \(2019\)](#); [Utah Admin. Code r. 162-2f-401f \(2020\)](#); [S. Con. Res., 2013 Gen. Sess. 11 \(Utah 2013\)](#)

Vermont

Vermont, Agent's Obligations Regarding Seller's Required Disclosures

A licensee may be disciplined if he or she "fails to fully disclose to a buyer all material facts within the licensee's knowledge concerning the property being sold."

Pursuant to Real Estate Commission rules "[a] licensee working for a brokerage firm employed by a seller or seller's agent must fully and promptly disclose to a prospective buyer all material facts within the licensee's knowledge concerning the property being sold. This obligation continues until the sale is closed or has been cancelled." The rule gives the following examples of material facts:

- "a defect that could significantly diminish the value of the land, structures, or structural components such as the roof, wiring, plumbing, heating system, water system, or sewage disposal system;"
- a deed limitation that could substantially impair the marketability or use of the property;
- "a recognized or generally accepted hazard to the health or safety of a buyer or occupant of the property;" or
- "facts a licensee reasonably believes may directly impact the future use or value of the property."

"If the client refuses to consent to disclosure after being informed that the licensee considers disclosure to be necessary, then the licensee must withdraw from the agency relationship."

Also, before the sale of "rental target housing," real estate agents, sellers, and other transferors must provide the buyer with approved information "explaining EMP obligations." This requirement does not apply to target housing that has been certified lead-free.

Section 1767 amended 2017; § 2296 amended 209; rule amended 2015.

[Vt. Stat. tit. 18, § 1767](#); [tit. 26, § 2296 \(2019\)](#); [04 030 290 Vt. Code R. § 4.5 \(2019\)](#)

Vermont, Flood-related Disclosures

No relevant provisions were located.

Vermont, Other Relevant Provisions

No relevant provisions were located.

Vermont, Seller's Disclosure Form

Research located no Vermont statutes or regulations requiring a real estate seller to disclose general information to a prospective buyer on a specified form.

Both the [Vermont Lead Law Disclosure Form: Single Family Home](#) and the [Vermont Lead Laws Disclosure Form: Lead-free Property](#) are available online.

Forms amended 2009.

Vermont, Unusual Disclosure Requirements

RADON

Research located no provision requiring a seller to disclose the existence of radon on the property.

LEAD-BASED PAINT

Research located no generally applicable state-law provision requiring a seller to disclose the existence of lead-based paint on the property.

However, before a purchase and sale agreement for "target housing" is executed, the seller must provide the buyer with the following:

- a lead-paint hazard brochure;
- materials on other lead hazards in housing; and
- a disclosure form that includes "any assurance of discontinuance, administrative order, or court order the terms of which are not completed and, if the property is rental target housing, verification that the EMP have been completed and that a current EMP compliance statement has been filed with the department."

At the time of a target-housing sale, a seller must:

- provide the buyer with any of the above materials not previously disclosed and an approved "lead-safe renovation practices packet"; and
- disclose any "assurance of discontinuance, administrative order, or court order" not previously disclosed, if its terms have not been completed.

Before the sale of "rental target housing," real estate agents, sellers, and other transferors must provide the buyer with approved information "explaining EMP obligations."

None of the above requirements apply to target housing that has been certified lead-free.

"Target housing" means any dwelling constructed before 1978, except "any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of elders or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling." It does not include units in a hotel, motel, or other lodging rented for transient occupancy for no more than 30 days.

Both the [Vermont Lead Law Disclosure Form: Single Family Home](#) and the [Vermont Lead Laws Disclosure Form: Lead-free Property](#) are available online.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Research located no provision requiring a seller to disclose the existence of methamphetamine labs on the property.

OTHER UNUSUAL REQUIREMENTS

Working group on building energy disclosure

Note that 2011 Vt. Acts & Resolves ch. 47 created a "working group on building energy disclosure to study whether and how to require disclosure of the energy efficiency of commercial and residential buildings in order to make data on building energy performance visible in the marketplace for real property and inform the choices of those who may purchase or rent such property."

Potable water

Within 72 hours of executing a contract conveying real property with a potable water supply that is not served by a public water system, the seller must provide the buyer with informational materials developed by the Department of Health regarding:

- the potential health effects of consuming contaminated groundwater; and
- the availability of test kits.

Sections 1767 amended 2017; § 1751 amended 2019; § 616 enacted 2011; forms amended 2009.

[Vt. Stat. tit. 18, §§ 1751, 1767; tit. 27, § 616 \(2019\); see 2011 Vt. Acts & Resolves ch. 47](#)

Virgin Islands

Virgin Islands, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located.

Virgin Islands, Flood-related Disclosures

No relevant provisions were located.

Virgin Islands, Other Relevant Provisions

No relevant provisions were located.

Virgin Islands, Seller's Disclosure Form

No relevant provisions were located.

Virgin Islands, Unusual Disclosure Requirements

No relevant provisions were located in the Virgin Islands statutes or regulations.

Virginia

Virginia, Agent's Obligations Regarding Seller's Required Disclosures

GENERAL OBLIGATIONS

Generally, a listing broker representing a residential real property owner has a duty to inform the owner of his or her rights and obligations. A licensee representing a residential real property purchaser or, if the purchaser is not represented, the licensee representing the owner and dealing with the purchaser, has a duty to inform the purchaser of his or her rights and obligations. If a real estate licensee performs this duty, the licensee is not liable for any failure to disclose any information regarding the property.

However, it is an action constituting "misrepresentation or omission" for a licensee representing a seller or landlord as a standard agent to fail to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the property's physical condition that the licensee actually knows.

LEAD-BASED PAINT

An agent who has complied with the United States Residential Lead-Based Paint Hazard Reduction Act of 1992 is generally not liable for civil damages for lead-poisoning arising

from a residential dwelling's condition, provided that the following occurred before a purchaser or tenant signs a purchase contract or lease:

- an EPA-approved lead hazard information pamphlet was provided to the purchaser or lessee;
- any known lead-based paint, and any additional information or reports available to the owner concerning lead-based paint, were provided to the purchaser or lessee;
- the agent disclosed to a lessee the presence of any known lead-based paint and any additional known information or reports concerning lead-based paint; and
- the purchaser or tenant signed a written statement acknowledging the disclosure and receipt of the literature.

The disclosure requirements continue during the term of the tenancy for any new information the agent knows or possesses concerning the presence of lead-based paint. An agent must disclose in writing and provide the tenant with a summary of any new information, advising the tenant that a full package of information and any report is available for inspection and copying if he or she so requests.

SEPTIC TANK PERMITS

A listing broker representing a residential real property owner has a duty to inform each owner of his or her rights and obligations to make certain required disclosures regarding the validity of certain septic tank permits, as required by § 32.1-164.1:1(B). A licensee representing a residential real property purchaser or, if the purchaser is not represented by a licensee, the licensee who is representing a residential real estate

owner and dealing with the purchaser, must inform the purchaser of his or her rights and obligations under § 32.1-164.1:1(B). If a licensee performs these duties, he or she has no further duties to the parties to a residential real estate transaction regarding the validity of septic tank permits under § 32.1-164.1:1.

DEFECTIVE DRYWALL

A licensee engaged by a seller must disclose to prospective buyers all material adverse facts pertaining to the property's physical condition that the licensee actually knows. If a licensee has actual knowledge of defective drywall in a property, the licensee must disclose that information to the prospective buyer. Similarly, if a licensee engaged by a buyer has actual knowledge of defective drywall in a property, the licensee must disclose that information to the buyer.

FALSE INFORMATION

A licensee engaged by a seller must not knowingly give a buyer false information. However, he or she is not liable for giving false information if that information was:

- provided to the licensee by the licensee's client;
- obtained from a governmental entity or a nongovernmental person or entity that obtained information from a governmental entity; or
- obtained from or a person licensed, certified, or registered to provide professional services, and the licensee relies on that information.

The licensee also must not:

- have actual knowledge that the information was false; or
- act in reckless disregard of the truth.

Section 8.01-226.7 amended 2007; § 55.1-712 renumbered and recodified 2019; §§ 32.1-164.1:1, amended 2015; §§ 54.1-2131 and 54.1-2132 amended 2016; § 54.1-2142.1 amended 2016; regulation amended 2015.

[Va. Code §§ 8.01-226.7\(B\); 32.1-164.1:1; 54.1-2131, -2132, -2142.1; 55.1-712 \(2019\); 18 Va. Admin. Code § 135-20-300 \(2020\)](#)

Virginia, Flood-related Disclosures

The Virginia Real Estate Board's [Residential Property Disclosures Website](#) requires the following notice to purchasers: that the owner makes *no* representations regarding whether the property is located in a special flood hazard area and that purchasers are advised "to exercise whatever due diligence they deem necessary," including obtaining a flood certification or mortgage lender determination of whether the property is located in a special flood hazard area, reviewing a map depicting special flood hazard areas, and determining whether flood insurance is required.

Website revised October 2019.

Virginia, Other Relevant Provisions

GENERAL APLICABILITY OF DISCLOSURE REQUIREMENTS

Chapter 517 applies only to transfers of residential real property, consisting of one to four dwelling units, by:

- sale;
- exchange;
- installment land sales contract; or
- lease with option to buy.

In the disclosure context, a "real estate contract" is "a contract for the sale, exchange, or lease with the option to buy residential real estate" subject to the disclosure provisions. See § 55.1-702 for a list of transfers that are specifically excluded from the disclosure requirements.

PSYCHOLOGICALLY IMPACTED PROPERTY

No cause of action exists against an owner or licensee for failure to disclose that a property:

- was the site of an act that had no effect on the property's physical structure, physical environment, or improvements; or
- was the location of a homicide, felony, or suicide.

RELIANCE ON THIRD-PARTY REPORTS

Delivery by a public agency of any information required to be disclosed or the delivery by the owner of a report prepared by a licensed engineer, land surveyor, geologist, wood-destroying insect control expert, contractor, or home inspection expert, dealing with matters within the scope of his expertise, generally satisfies the disclosure requirements. The owner is not liable for any error or omission of any information regarding proximity to a military air installation if the error or omission resulted from information provided by an officer or employee of the locality in which the property is located.

Sections renumbered and recodified 2019.

[Va. Code §§ 55.1-700, -701, -702, -710, -713 \(2019\)](#)

Virginia, Seller's Disclosure Form

Subject to the exemptions set forth in § 55.1-702, a residential real property owner must furnish to a purchaser a residential property disclosure statement. Links to the Board-approved statement and disclosure forms are available on the Department of Professional and Occupational Regulations [Disclosure Forms](#) website.

Sections renumbered and recodified 2019.

[Va. Code §§ 55.1-703, -714 \(2019\)](#); *see also* [Va. Code § 55.1-702 \(2019\)](#)

Virginia, Unusual Disclosure Requirements

RADON

The Virginia Residential Property Disclosure Statement and Website no longer require a seller to disclose whether hazardous materials, including radon, are located on the property, and the specific statutory reference to radon disclosures previously contained in § 55-519 has been deleted effective July 1, 2007.

LEAD-BASED PAINT

The Virginia Residential Property Disclosure Statement and Website no longer provide that a seller must disclose whether hazardous materials, including lead-based paint, are located on the property, and the specific statutory reference to lead-based paint disclosures previously contained in § 55-519 has been deleted effective July 1, 2007.

LOCAL AIRPORTS

An owner of residential real property "located in any locality in which a military air installation is located" must disclose to the purchaser "whether the subject parcel is located in a noise zone or accident potential zone, or both, if so designated on the official zoning map by the locality in which the property is located on a form provided by the Real Estate Board." The disclosure must state the specific noise or accident potential zone in which the property is located. The board provides an approved form entitled [*Real Estate Transfer Disclosure for Properties Located in a Locality in which a Military Air Installation is Located*](#).

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the required form does require several environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

A residential dwelling owner who knows that the property was used to manufacture methamphetamine and has not been cleaned up in accordance with the relevant statutory guidelines must disclose that fact in to a prospective purchaser in writing on a form provided by the Virginia Real Estate Board. The [*Disclosure Statement for Residential Property Previously Used to Manufacture Methamphetamine*](#) form is available online.

OTHER UNUSUAL REQUIREMENTS

Hazardous materials

The Virginia Residential Property Disclosure Statement and Website no longer provide that all sellers must disclose whether hazardous materials are located on the property or any other material defects known to the owner.

Representations

For transfers of residential real property consisting of not less than one nor more than four dwelling units, the owner must furnish to a buyer a residential property disclosure statement, provided by the Real Estate Board on its website, for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property.

The [Residential Property Disclosures Website](#) requires the following notices to purchasers:

- that the owner "makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land records affecting the real property or any improvements thereon" and that purchasers should "exercise whatever due diligence the purchaser(s) deems necessary," including obtaining a home inspection;
- that the owner "makes no representations with respect to any matters which that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels" and that purchasers should "exercise whatever due diligence the purchaser(s) deems necessary with respect to adjacent parcels";
- that the owner "makes no representations as to any matters that pertain to whether the provisions of any historic district ordinance affect the property" and that purchasers should "exercise whatever due diligence the purchaser deems necessary

with respect to any historic district designated by the locality," including reviewing local ordinances or official maps depicting historic districts;

- that the owner "makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act" and that purchasers should "exercise whatever due diligence the purchaser(s) deems necessary to determine whether the provisions of any such ordinance affect the property," including reviewing any official maps;
- that the owner "makes no representations with respect to information on any sexual offenders" and that purchasers should "exercise whatever due diligence the purchaser(s) deems necessary with respect to such information";
- that the owner "makes no representations with respect to whether the property is within a dam break inundation zone," and that purchasers should "exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones";
- that the owner makes no representations with respect to the presence of any stormwater detention facilities, or any maintenance agreement for such facilities, and that purchasers are advised to exercise "whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities";
- that the owner makes no representations with respect to the presence of any wastewater system located on the property and that purchasers are advised to exercise "whatever due diligence they deem necessary to determine the presence of any wastewater system on the property";

- that the owner makes no representations regarding the right to install or use solar energy collection devices on the property;
- effective July 1, 2015, that the owner makes no representations regarding whether the property is located in a special flood hazard area and that purchasers are advised "to exercise whatever due diligence they deem necessary," including obtaining a flood certification or mortgage lender determination of whether the property is located in a special flood hazard area, reviewing a map depicting special flood hazard areas, and determining whether flood insurance is required;
- that the owner "makes no representations with respect to whether the property is subject to one or more conservation or other easements and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract" and
- that the owner makes no representations regarding whether the property is subject to a community development authority approved by a local governing body and "purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district."

Septic systems

If applicable, the seller must also make certain disclosures regarding the validity of septic system operating permits. The owner must deliver to the purchaser a written septic disclosure before accepting a real estate purchase contract, and the disclosure statement must be on the [Disclosure Regarding Validity of Septic System Operating Permit](#) form developed by the Real Estate Board.

The property owner must also disclose:

- that any operating permit for the onsite sewage system that has been granted a waiver will be null and void at the time of the property's transfer or sale; and
- that "the Board's regulatory requirements for additional treatment or pressure dosing shall be required before an operating permit may be reinstated."

This disclosure regarding sewage system waivers applies only to transfers by sale, exchange, installment land sales contract, or lease with option to buy residential real property with no less than one nor more than four dwelling units, whether or not the transaction is with a real estate licensee's assistance.

New dwellings

The builder of a new dwelling must disclose in writing to the purchaser all "known material defects" that would constitute a violation of any applicable building code. Also, if the property is located in Planning District 15, the builder (or owner, if the builder is not the owner) must disclose in writing whether the builder or owner knows:

- whether mining operations have been conducted on the property; or
- whether there are any "abandoned mines, shafts, or pits."

See [Disclosure Statement for Certain New Dwellings](#) provided by the Virginia Real Estate Board.

Defective drywall

If a residential real property owner has actual knowledge of the existence of defective drywall in his or her property, the owner must provide to a prospective purchaser a written disclosure on the [Defective Drywall Disclosure Statement](#) provided by the Virginia Real Estate Board disclosing that information.

Pending zoning or building code violations

If a residential real property owner has actual knowledge of "any pending enforcement actions pursuant to the Uniform Statewide Building Code that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, or any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, the owner shall provide to a prospective purchaser a written disclosure" on the [Building Code Enforcement Action/Zoning Ordinance Violation Disclosure Form](#) provided by the Board.

Tourism activity zones

An owner of residential property located within a designated tourism activity zone *may* disclose in writing to a prospective purchaser or lessee that the property is located in a tourism activity zone. The disclosure may include a description of potential impacts associated with the property's location.

Sections 55-517, -518, -519.1, -519.2, -519.4 amended 2017; §§ 55-519 and 55-525 amended 2018; § 55-248.11:2 amended 2008; § 55-519.2:1 enacted 2017; § 55-519.3 enacted 2013; § 32.1-164.1:1 amended 2015; general disclosure form amended 2017.

[Va. Code §§ 32.1-164.1:1; 55.1-701, -702, -703, -704, -705, -706, -707, -708, -714 \(2019\); Residential Property Disclosure Statement: Acknowledgement by Seller and Purchaser \(Oct. 2019\); Residential Property Disclosures Website](#) (last visited Feb. 24, 2020)

Washington

Washington, Agent's Obligations Regarding Seller's Required Disclosures

A licensee is not liable for any error, inaccuracy, or omission in a real property disclosure statement, provided he or she had no actual knowledge of the error, inaccuracy, or omission.

Note too that a broker generally owes to all parties to whom the broker renders real estate brokerage services a duty to “disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party; provided that this . . . shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate.” A broker owes “no duty to conduct an independent inspection of the property . . . , and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the broker to be reliable.” [Wash. Rev. Code § 18.86.030\(1\)\(d\), \(2\) \(2019\)](#)

A nonresidential building owner or operator, or its agent, must disclose "the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings" for the "most recent continuously occupied twelve-month period" to any prospective buyer, lessee, or lender. A building owner or operator or an agent that provides this information to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption. This provision is not intended to increase or decrease an agent's duties or to alter his or her duty to disclose a material fact affecting the real property.

Section 64.06.050 amended 2019; § 19.27A.170 enacted 2009; § 18.86.030 amended 2013.

[Wash. Rev. Code §§ 19.27A.170; 64.06.050 \(2019\)](#)

Washington, Flood-related Disclosures

The state's disclosure statement for improved residential real property requires the following flood-related disclosures:

- whether the basement has flooded or leaked;
- whether there has been any flooding, standing water, or drainage problems that affect the property or access to it;

- whether there is any material damage to the property from floods or beach movements; and
- whether there are any shorelines, wetlands, floodplains, or critical areas on the property.

Amended 2019.

[Wash. Rev. Code § 64.06.020 \(2019\)](#)

Washington, Other Relevant Provisions

GENERAL APPLICATION OF DISCLOSURE REQUIREMENTS

A seller of residential real property must complete the seller disclosure statement. "Residential real property" includes both improved and unimproved residential real property.

"Improved residential real property" is:

- property with one to four residential dwelling units;
- a residential condominium (unless the sale is subject to the public offering statement requirement);
- a residential timeshare (unless subject to written disclosure under the Washington timeshare act); or

- a mobile or manufactured home that is personal property.

"Unimproved residential real property" is property zoned for:

- "residential use that is not improved by one or more residential dwelling units";
- a residential condominium or timeshare; or
- a mobile or manufactured home.

"Unimproved residential real property" explicitly does not include "timber land," as defined by § 84.34.020, or "commercial real estate," as defined by § 60.42.005.

Washington law provides that any ordinance, resolution, or policy adopted by a city or county that imposes a requirement on landlords or real property sellers to provide information to a buyer or tenant pertaining to the property or the surrounding area is effective only after a summary of and internet link to the ordinance, resolution, or policy is posted electronically.

The notice regarding sex offenders under [§ 64.06.020](#) "does not create any legal duty on the part of the seller, or on the part of any real estate licensee, to investigate or to provide the buyer with information regarding the actual presence, or lack thereof, of registered sex offenders in the area of any property."

Section 64.06.005 amended 2019; § 64.06.080 amended 2016; § 64.06.021 enacted 2004.

[Wash. Rev. Code §§ 64.06.005, .080 \(2019\)](#); *see also* [Wash. Rev. Code § 64.06.021 \(2019\)](#)

Washington, Seller's Disclosure Form

Unless exempt pursuant to Wash. Rev. Code § 64.06.010 or waived by the buyer, a seller of improved or unimproved residential real property must deliver to the buyer a completed seller disclosure statement:

- in the form set forth in § 64.06.020 for improved property; and
- in the form set forth in § 64.06.015 for unimproved property.

A seller of commercial real estate must deliver to the buyer a completed seller disclosure statement in the format set forth in § 64.06.013, unless:

- the buyer has expressly waived the right to receive the disclosure statement pursuant to § 64.06.010; or
- the transfer is otherwise exempt under § 64.06.010.

If a seller's answer to any of the questions in the "Environmental" section of the disclosure form would be "yes," the buyer may not waive receipt of that section of the seller disclosure statement.

Section 64.06.010 amended 2010; § 64.06.013 amended 2012; § 64.06.015 amended 2011; § 64.06.020 amended 2019.

[Wash. Rev. Code §§ 64.06.010, .013, .015, .020 \(2019\)](#)

Washington, Unusual Disclosure Requirements

RADON

Both the improved property and the unimproved property seller disclosure statement forms require the seller to disclose and explain the existence of any substances on the property that may be an environmental hazard, including radon gas.

LEAD-BASED PAINT

Both the improved property and the unimproved property seller disclosure statement forms require the seller to disclose and explain the existence of any materials on the property that may be an environmental hazard, including lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, both the improved property and the unimproved property disclosure forms require several environmental disclosures. (See Other Unusual Requirements below.) Furthermore, if the seller's answer to any of the questions in the "Environmental" section would be "yes," the buyer may not waive receipt of that section of the seller disclosure statement.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones. However, the improved property seller disclosure statement form requires the seller to

disclose and explain the existence of any settling, slippage, or sliding of the house or other structures located on the property. The form also requires the seller to disclose any material damage to the property from earthquakes, expansive soils, or landslides. The unimproved property disclosure statement similarly requires disclosure of any "settlement, earth movement, slides, or similar soil problems" and whether any part of the property contains "fill dirt, waste, or other fill material."

METHAMPHETAMINE/DRUG LAB DISCLOSURE

Both the improved property and the unimproved property seller disclosure statement forms require the seller to disclose whether the property has ever been used as an illegal drug manufacturing site.

OTHER UNUSUAL REQUIREMENTS

Improved property

Unless the transfer is exempt, the seller must disclose on the improved property seller disclosure statement form whether:

- there are any water rights for the property, and, if so, whether they have been used during the last five years;

- the property contains fill;

- any substances, materials, or products on the property may be an environmental hazard, including asbestos, formaldehyde, storage tanks, or contaminated soil or water;

-

any radio towers in the area may cause interference with cellular telephone reception;

- homeowners' association or common interest disclosures, including contact information for an officer, director, employee, or other authorized agent who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available;
- any other existing material defects affect the property;
- certain wood-burning appliances are present on the property;
- the property is located "within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services"; and
- effective July 24, 2015, there are defects in any elevators, incline elevators, stairway chairs, wheelchair lifts, or lifts.

Sex offenders

The seller disclosure form must contain a notice that registered sex offender information may be obtained from local law enforcement agencies.

Farms and forests

The statutory provision enacted in 2005 that previously required a seller to provide notice if the property was located near farm operations, has been amended to provide that a seller of residential real property must make the following statement "available to the buyer":

"This notice is to inform you that the real property you are considering for purchase may lie in close proximity to a farm or working forest. The operation of a farm or working forest involves usual and customary agricultural practices or forest practices, which are protected under RCW 7.48.305, the Washington right to farm act."

Environmental provisions

The statutory form includes the following additional environmental provisions:

- more detailed disclosures regarding water rights;
- whether the property contains any "shorelines, wetlands, floodplains, or critical areas";
- whether the property has been used for "commercial or industrial purposes";
- whether there is any "soil or groundwater contamination";
- whether "transmission poles, transformers, or other utility equipment" is "installed, maintained, or buried" on the property; and
- whether the property been used as a "legal or illegal dumping site."

Unimproved property

In a transaction for the sale of *unimproved* residential real property, unless the buyer has expressly waived the right to receive the disclosure statement or the transfer is otherwise exempt, the seller must deliver to the buyer a completed seller disclosure statement in the form set forth in the statute. That form generally includes disclosures regarding the following, several of which are also referenced under the appropriate headings above:

- title to the property;

- water;

- sewer or septic system;

- electrical and gas services;

- flooding;

- soil stability;

- environmental factors;

- homeowners' association or common interest disclosures, including, effective July 26, 2009, the contact information for an officer, director, employee, or other authorized agent, who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available;

- "other facts";
- full disclosure of material defects; and
- whether the property is located "within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services."

Energy consumption for commercial buildings

A commercial building owner or operator, or its agent, must disclose "the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings" for the "most recent continuously occupied twelve-month period" to any prospective buyer, lessee, or lender. A building owner or operator or an agent that provides this information to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption. This provision is not intended to increase or decrease a building owner's or operator's (their agent's) duties or to alter a seller's, agent's, or broker's duty to disclose a material fact affecting the real property.

Carbon monoxide alarms and smoke detectors

A seller must disclose whether the property is equipped with carbon monoxide and smoke detection devices.

Greywater for subsurface irrigation

An owner, at the time of a property transfer, must provide a buyer with the "record information required under WAC 246-274-200(1)(i) or 246-274-300(3)(h) and, if available, maintenance records, in addition to the completed seller disclosure statement in accordance with chapter 64.06 RCW for residential real property transfers." Regulation 246-274-200(1)(i), which addresses Tier 2 greywater irrigation systems, and regulation 246-274-300, which addresses Tier 3 greywater irrigation systems, both require the owner's record to:

- show the system's location;
- identify the greywater's source;
- describe the system's design and how it meets specified regulatory requirements;
- identify the person responsible for the system's design;
- describe the system's maintenance requirements; and
- include an estimated calculation of the total irrigation area.

Oil tanks

Effective January 1, 2020, residential property seller must provide following notice to buyer: "This notice is to inform you that if the real property you are considering for purchase utilizes an oil tank for heating purposes, no cost insurance may be available from the pollution liability insurance agency."

Sections 64.06.022 amended 2019; § 64.06.010 amended 2010; § 64.06.015 amended 2011; § 19.27A.170 amended 2019; § 64.06.020 amended 2019; § 64.06.090 enacted 2018, effective Jan. 1, 2020; regulations 246-274-200, 246-274-300, and 246-274-440 adopted 2010.

[Wash. Rev. Code §§ 19.27A.170; 64.06.010, .015, .020, .022, .090 \(2019\); Wash. Admin. Code 246-274-200, -300, -440 \(2020\)](#)

West Virginia

West Virginia, Agent's Obligations Regarding Seller's Required Disclosures

No relevant provisions were located.

West Virginia, Flood-related Disclosures

No relevant provisions were located.

West Virginia, Other Relevant Provisions

No relevant provisions were located.

West Virginia, Seller's Disclosure Form

Research located no West Virginia statutes or regulations requiring a real estate seller to disclose information to a prospective buyer.

West Virginia, Unusual Disclosure Requirements

RADON

Research located no provision requiring a seller to disclose the presence of radon on the property.

LEAD-BASED PAINT

Research located no provision requiring a seller to disclose the presence of lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the owner of property on which a hazardous waste management facility is located must record a notation on the deed or lease to the facility property, or on an instrument that is normally examined during a title search that "will in perpetuity notify any potential purchaser" that:

- the land "has been used to manage hazardous wastes"; and
- its use is restricted.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURE

A residential property owner, seller or landlord of property on which a clandestine drug laboratory was located must disclose the certificate of remediation completion, issued by the state Department of Health and Human Resources, to any potential occupant of the residential property.

OTHER UNUSUAL REQUIREMENTS

Underground storage tank

The grantor in any deed or other instrument of conveyance must disclose in such deed, lease or other instrument the fact that such property, or the property's substrata contains an underground storage tank. This requirement only applies to those grantors who owned or had an interest in the real property when the property or the substrata thereof "contained an underground storage tank which was being actively used for storing any regulated substance or who have actual knowledge or reason to believe that such real property or the substrata thereof contains an underground storage tank."

Hazardous waste

The grantor in any deed or other instrument of conveyance must disclose in such deed, lease or other instrument the fact that such property or the property's subsurface, "(whether or not the grantor or lessor is at the time of such conveyance or lease the owner of such subsurface) was used for the storage, treatment or disposal of hazardous waste." This requirement only applies to those grantors who owned or had an interest in the real property when the property or the subsurface thereof "was used for the purpose of storage, treatment or disposal of hazardous waste or who have actual knowledge that such real property or the subsurface thereof was used for such purpose or purposes at any time prior thereto."

Section 60A-11-3 enacted 2007; regulation 33-20-12.1 amended 2015; regulation 64-92-6.3 promulgated 2008.

[W. Va. Code §§ 22-17-19; 22-18-21, 60A-11-3 \(2019\); W. Va. Code R. §§ 33-20-12.1, 64-92-6.3 \(2019\)](#)

Wisconsin

Wisconsin, Agent's Obligations Regarding Seller's Required Disclosures

No provisions were located specifically applicable to an agent's obligations regarding a seller's required disclosures, except that a licensee must disclose any known facts that contradict information included in any written report provided by a qualified third party.

Also, generally, a licensee, must disclose to each party "all material adverse facts that the licensee knows and that the party does not know or cannot discover through a reasonably vigilant observation, unless the disclosure of the material adverse fact is prohibited by law."

An "adverse fact" is "[a] condition or occurrence that is generally recognized by a competent licensee as doing any of the following: (a) significantly and adversely affecting the value of the property; (b) significantly reducing the structural integrity of improvements to real estate; or (c) presenting a significant health risk to occupants of the property."

"Material adverse fact" is defined as "an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision about the terms of such a contract or agreement."

Statutory section 542.23 amended 2015; § 542.01 amended 2017; regulation amended 2017.

[Wis. Stat. Ann. § 452.01\(1e\), \(5g\); .23\(3\) \(2020\); Wis. Admin Code REEB § 24.07\(2\) \(2019\)](#)

Wisconsin, Flood-related Disclosures

The state's *Real Estate Condition Report* requires a seller to disclose whether he or she is aware that the property is located in a floodplain, wetland, or shoreland zoning area.

The *Vacant Land Disclosure Report* requires the seller to disclose whether he or she is aware:

- that the property is in a floodplain, wetland, or shoreland zoning area;
- of flooding, standing water, drainage problems, or other water problems on or affecting the property; and

- of material damage from a flood.

In both cases, the prospective buyer must acknowledge that technical knowledge may be required to detect certain defects, such as floodplain status.

Section 710.12 enacted 2010; §§ 709.03 and 709.033 amended 2018.

[Wis. Stat. Ann. §§ 709.03, .033; 710.12 \(2020\)](#)

Wisconsin, Other Relevant Provisions

GENERAL APPLICABILITY OF DISCLOSURE REQUIREMENTS

Unless otherwise excepted or exempt, a seller who transfers Wisconsin real property, including a condominium unit and time-share property, must complete the required disclosures, whether the transfer is by:

- sale;
- exchange; or
- land contract.

PSYCHOLOGICALLY IMPACTED PROPERTY

An owner need not disclose information related to the fact that a particular person is required to register as a sex offender or information about the sex offender registry, unless the buyer asks the owner whether a particular person is required to register as a sex offender or other information about the sex offender registry, in which case the owner must disclose information he knows.

RELIANCE ON THIRD PARTY REPORTS

Generally, an owner may substitute for any entry on the disclosure form information supplied by:

- a licensed engineer, professional land surveyor, pest control operator, qualified third party, or a contractor about matters within the scope of his or her occupation; or
- a public agency.

CONDOMINIUMS

An owner transferring a condominium unit must furnish, in addition to and at the same time as the information required for sellers under § 709.02(1)(1), all the following information as an addendum to the real estate condition report:

- the condominium's name and the date it was recorded;
- the unit number;
- the name, address, and telephone number of the seller or his or her agent;
- the condominium association's name and address;

- a statement regarding whether the association is self-managed or has hired or retained management;
- an association representative's name, address, and telephone number;
- the current condominium assessments, fees, special assessments, or other charges for which a unit owner is responsible;
- whether the current charges for the unit have been paid; and
- a copy of the executive summary required under § 703.33(1)(h), unless excused by § 703.365(8).

TORT FOR INTENTIONAL MISREPRESENTATION

For transactions completed on or after April 23, 2009, a residential real estate transaction buyer may maintain a tort action against the seller for fraud or intentional misrepresentation.

Section 706.20 enacted 1999; § 895.10 enacted 2009; § 709.01 amended 2011; §§ 709.02 and 709.07 amended 2014.

[Wis. Stat. Ann. §§ 709.01\(1\), .02, .07; 706.20; 895.10 \(2020\)](#)

Wisconsin, Seller's Disclosure Form

Except as provided in §§ 709.01 and 709.02, all persons who transfer real property containing one to four inhabited dwelling units located in Wisconsin must furnish to the prospective buyer a completed copy of a disclosure report in substantially the form of the Real Estate Condition Report

set forth in § 709.03. A seller of vacant land must prepare a report in substantially the form set forth in § 709.033.

Sections 709.01 amended 2011; § 709.001 enacted 2011; § 709.02 amended 2014; §§ 709.03 and 709.033 amended 2018.

[Wis. Stat. Ann. §§ 709.01, .001, .02, .03, .033 \(2020\)](#)

Wisconsin, Unusual Disclosure Requirements

RADON

The statutory form requires a seller to disclose any unsafe conditions relating to radon. Similarly, the Vacant Land Disclosure Report requires disclosure of whether the seller is aware of contamination caused by radon.

LEAD-BASED PAINT

The statutory form requires a seller to disclose any unsafe conditions relating to lead-based paint.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites. However, the statutory form requires the seller to disclose whether he is aware of the storage of hazardous or toxic substances on neighboring properties. The

statutory form also requires several other environmental disclosures. (See Other Unusual Requirements below.)

EARTHQUAKE ZONES

Research located no provision generally requiring a seller to disclose the existence of local earthquake zones. However, the Vacant Land Disclosure Report requires disclosure of whether the seller is aware of material earthquake damage.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

The statutory form and the Vacant Land Disclosure Report require disclosure of whether methamphetamine or other hazardous or toxic substances have been manufactured on the property.

OTHER UNUSUAL REQUIREMENTS

Required by form

The statutory form requires a seller to disclose whether:

- unsafe levels of mold are present;
- the property is served by a joint well;
- fuel storage tanks are, or previously were, located on the property and whether any of them are, or were, defective;

- an “LP” tank is located on the property;
- the property is located in a wetland or shoreland zoning area;
- high voltage electric (100 KV or greater) or steel natural gas transmission lines are located on but not directly serving the property;
- any defects caused by unsafe concentrations of radium in water supplies, lead in soil, lead in water supplies or the plumbing system, or other potentially hazardous or toxic substances exist on the property;
- one or more burial sites are located on the property;
- any asbestos or asbestos-containing materials are located on the premises;
- a structure on the property is designated as a historic building;
- any part of the property is in a historic district; and
- as of July 1, 2014, "a dam is totally or partially located on the property" or "an ownership in a dam that is not located on the property will be transferred with the property because it is owned collectively by members of a homeowners association, lake district, or similar group."

The statutory form also requires a seller to disclose whether he or she is aware that the property is "located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district."

The statutory form requires a seller to disclose whether he or she is aware that the property is "subject to a mitigation plan required under administrative rules of the Wisconsin Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county."

Managed forest land

If all or any portion of real property will continue after sale to be subject to an order designating it as managed forest land, the property owner must, no later than 10 days after the owner's acceptance of the sale contract, provide a written disclosure to the prospective buyer that the real property will continue to be subject to the order after the property is transferred. The disclosure must:

- explain that the terms of orders designating managed forest land are for 25 or 50 years;
- state that the division of forestry monitors management plan compliance;
- provide information as to how to contact the forestry division; and
-

contain the following statement: "Changes you make to property that is subject to an order designating it as managed forest land, or to its use, may jeopardize your benefits under the program or may cause the property to be withdrawn from the program and may result in the assessment of penalties."

Vacant land disclosures

Wisconsin statutes provide that a seller of real property that does not include any buildings must prepare a Vacant Land Disclosure Report form, which is set forth in § 709.033.

Section 710.12 enacted 2010; §§ 709.03 and 709.033 amended 2018.

[Wis. Stat. Ann. §§ 709.03, .033; 710.12 \(2020\)](#)

Wyoming

Wyoming, Agent's Obligations Regarding Seller's Required Disclosures

A licensee acting as a seller's agent must disclose to any prospective buyer all adverse material facts actually known by the licensee. "The adverse material facts may include adverse material facts pertaining to the title and the physical condition of the property, any material defects in the property and any environmental hazards affecting the property which are required by law to be disclosed." A seller's agent may not "perpetuate a material misrepresentation of the seller which the licensee knows or should know is false".

Generally, a licensee may be disciplined for failing to disclose material matters known to the licensee.

Statute amended 2011; regulation amended 2017.

Wyo. Stat. § 33-28-303(c) (LexisNexis 2019); 9827 Wyo. Code R. ch. 6, § 1 (2020)

Wyoming, Flood-related Disclosures

No relevant provisions were located.

Wyoming, Other Relevant Provisions

No specifically relevant provisions were located.

However, although the Real Estate Commission may discipline a *licensee* for failing to disclose known material matters, the phrase "material to the transaction" specifically does not include "psychological considerations including, but not limited to, health issues, suicide, murder or crimes which have occurred on the property."

Statutory section amended 2017; regulation amended 2017.

Wyo. Stat. § 33-28-102 (LexisNexis 2019); 9827 Wyo. Code R. ch. 6, § 1 (2020)

Wyoming, Seller's Disclosure Form

Research located no Wyoming statutes or regulations generally requiring a seller to disclose information to a prospective buyer. However, a seller of *vacant land* must provide a prospective buyer with a property disclosure statement that includes basic information, primarily focusing on availability of services and whether fee ownership of the wind estate has been severed from the chain of title.

Section amended 2012.

Wyo. Stat. § 34-1-151 (LexisNexis 2019)

Wyoming, Unusual Disclosure Requirements

RADON

Research located no provision requiring a seller to disclose the existence of radon gas on the property.

LEAD-BASED PAINT

Research located no provision requiring a seller to disclose the existence of lead-based paint on the property.

LOCAL AIRPORTS

Research located no provision requiring a seller to disclose the location of local airports.

LOCAL SUPERFUND SITES

Research located no provision requiring a seller to disclose the existence of local superfund sites.

EARTHQUAKE ZONES

Research located no provision requiring a seller to disclose the existence of local earthquake zones.

METHAMPHETAMINE/DRUG LAB DISCLOSURES

Any property that is ordered uninhabitable or contaminated because of a clandestine laboratory operation may be transferred or sold before remediation only if "full, written disclosure":

-

is made to the prospective purchaser;

- is attached to any earnest money receipt; and
- accompanies the sale documents.

The disclosure need not be a part of the deed or recorded. The seller must notify the incident commander of the sale within 10 days.

OTHER UNUSUAL REQUIREMENTS

Vacant land

A seller of *vacant land* must provide a prospective buyer with a property disclosure statement that includes basic information, primarily focusing on availability of services. The disclosure must also include whether "fee ownership of the wind estate has in any way been severed in the chain of title from the surface estate." A buyer may waive this wind-estate disclosure requirement.

Section 34-1-151 amended 2012; § 35-9-156 amended 2011.

Wyo. Stat. §§ 34-1-151; 35-9-156 (LexisNexis 2019)