

Property Condition Disclosure Statement

Frequently Asked Questions



Who fills out the form?

All sellers of existing 1-4 family homes and town homes must complete and sign the Property Condition Disclosure Statement.

Some exemptions to the rule are:

- New construction (never inhabited)
- Condominium units and cooperative apartments
- Commercial properties
- Foreclosed properties
- Multi-family dwellings (i.e. 5 + units)
- Vacant land
- Transfer due to court order (i.e. estate, bankruptcy, eminent domain, divorce decree, tax sale)
- HUD properties or government entities

What Isn't Exempted:

- Power of Attorney
- Inheritance
- Life Estate; Life Use
- "I never lived there"

What are the seller's responsibilities?

The seller must truthfully complete and sign a property condition disclosure statement based on seller's actual knowledge of the condition of the property. The disclosure statement must be delivered to the buyer or buyer's agent before the buyer enters a purchase and sale contract.

What is actual knowledge?

The seller has the option to answer "yes," "no," "not applicable," or "unknown." Sellers must answer the questions based upon their actual knowledge at the time of signing the disclosure statement. The seller is under no obligation to conduct any type of inspection of the property or to check public records in an effort to complete the disclosure statement.

What if the seller discovers a defect after the seller has already completed the disclosure statement and has delivered it to the buyer?

If a seller acquires knowledge that renders inaccurate a previous disclosure statement, the seller must complete and deliver a revised disclosure statement to the buyer as soon as possible. Under no circumstances is the seller required to provide a revised disclosure statement to the buyer after transfer of title or after the buyer takes occupancy of the property, whichever is earlier.

What happens if the seller refuses to sign the disclosure statement or does not do so in a timely manner?

As the seller of residential real property, owner must complete and sign a Property Condition Disclosure Statement (PCDS) as required by Real Property Law §462(2): "Except as is provided in section 463 of this article, every seller of residential real property pursuant to a real estate purchase contract shall complete and sign a property condition disclosure statement as prescribed by subdivision two of this section and cause it, or a copy thereof, to be delivered to a buyer or buyer's agent prior to the signing by the buyer of a binding contract of sale. A copy of the property condition disclosure statement containing the signatures of both seller and buyer shall be attached to the real estate purchase contract." Owner should seek the advice of their attorney about filling out the PCDS.

What are the agent's responsibilities?

The listing broker must timely inform the seller of the seller's obligation to complete the disclosure statement. An agent representing a buyer must timely inform such buyer of buyer's right to receive the disclosure statement before buyer enters a purchase and sale contract. If a buyer is not represented by an agent, seller's agent must inform buyer of buyer's right to receive the disclosure statement before buyer enters a purchase and sale contract. The seller and buyer must sign the disclosure statement, and a copy of the disclosure statement must be attached to the purchase and sale contract.

Should this form take the place of a home inspection or other testing?

Absolutely not. On the contrary, the disclosure statement strongly urges buyers to have a home inspection performed as well as other professional and environmental tests.

Does the disclosure statement create a warranty?

No. The property condition disclosure statement clearly states that the statement does not serve as any kind of warranty by the seller or by any agent representing the seller in the transaction.