

STATE OF NEW YORK

7876

2021-2022 Regular Sessions

IN ASSEMBLY

May 28, 2021

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to requiring disclosure of information concerning flood insurance on property condition disclosure statements; and to repeal section 467 of the real property law relating to liability with respect to property disclosures

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 462 of the real property law, as
2 added by chapter 456 of the laws of 2001, is amended to read as follows:

3 2. The following shall be the disclosure form:

4 PROPERTY CONDITION DISCLOSURE STATEMENT

5 NAME OF SELLER OR SELLERS:

6 PROPERTY ADDRESS:

7 THE PROPERTY CONDITION DISCLOSURE ACT REQUIRES THE SELLER OF RESIDENTIAL REAL PROPERTY TO CAUSE THIS DISCLOSURE STATEMENT OR A COPY THEREOF
8 TO BE DELIVERED TO A BUYER OR BUYER'S AGENT PRIOR TO THE SIGNING BY THE
9 BUYER OF A BINDING CONTRACT OF SALE.

10 PURPOSE OF STATEMENT: THIS IS A STATEMENT OF CERTAIN CONDITIONS AND
11 INFORMATION CONCERNING THE PROPERTY KNOWN TO THE SELLER. THIS DISCLOSURE
12 STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT
13 REPRESENTING THE SELLER IN THIS TRANSACTION. IT IS NOT A SUBSTITUTE FOR
14 ANY INSPECTIONS OR TESTS AND THE BUYER IS ENCOURAGED TO OBTAIN HIS OR
15 HER OWN INDEPENDENT PROFESSIONAL INSPECTIONS AND ENVIRONMENTAL TESTS AND
16 ALSO IS ENCOURAGED TO CHECK PUBLIC RECORDS PERTAINING TO THE PROPERTY.

17 A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM
18 MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02362-02-1

1 TRANSFER OF TITLE. [~~IN THE EVENT A SELLER FAILS TO PERFORM THE DUTY~~
2 ~~PRESCRIBED IN THIS ARTICLE TO DELIVER A DISCLOSURE STATEMENT PRIOR TO~~
3 ~~THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE, THE BUYER SHALL~~
4 ~~RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS~~
5 ~~AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPER-~~
6 ~~TY.]~~

7 "RESIDENTIAL REAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY A ONE TO
8 FOUR FAMILY DWELLING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCU-
9 PIED, WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS,
10 BUT SHALL NOT REFER TO (A) UNIMPROVED REAL PROPERTY UPON WHICH SUCH
11 DWELLINGS ARE TO BE CONSTRUCTED OR (B) CONDOMINIUM UNITS OR COOPERATIVE
12 APARTMENTS OR (C) PROPERTY ON A HOMEOWNERS' ASSOCIATION THAT IS NOT
13 OWNED IN FEE SIMPLE BY THE SELLER.

14 INSTRUCTIONS TO THE SELLER:

- 15 (a) ANSWER ALL QUESTIONS BASED UPON YOUR ACTUAL KNOWLEDGE.
- 16 (b) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS
17 REQUIRED.
- 18 (c) COMPLETE THIS FORM YOURSELF.
- 19 (d) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK "NA" (NON-AP-
20 PPLICABLE). IF YOU DO NOT KNOW THE ANSWER CHECK "UNKN" (UNKNOWN).

21 SELLER'S STATEMENT: THE SELLER MAKES THE FOLLOWING REPRESENTATIONS TO
22 THE BUYER BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AT THE TIME OF SIGN-
23 ING THIS DOCUMENT. THE SELLER AUTHORIZES HIS OR HER AGENT, IF ANY, TO
24 PROVIDE A COPY OF THIS STATEMENT TO A PROSPECTIVE BUYER OF THE RESIDEN-
25 TIAL REAL PROPERTY. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER
26 AND ARE NOT THE REPRESENTATIONS OF THE SELLER'S AGENT.

27 GENERAL INFORMATION

- 28 1. HOW LONG HAVE YOU OWNED THE PROPERTY?
- 29 2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?
- 30 3. WHAT IS THE AGE OF THE STRUCTURE OR STRUCTURES? NOTE TO BUYER--IF
31 THE STRUCTURE WAS BUILT BEFORE 1978 YOU ARE ENCOURAGED TO INVESTI-
32 GATE FOR THE PRESENCE OF LEAD BASED PAINT.
- 33 4. DOES ANYBODY OTHER THAN YOURSELF HAVE A LEASE, EASEMENT OR ANY
34 OTHER RIGHT TO USE OR OCCUPY ANY PART OF YOUR PROPERTY OTHER THAN
35 THOSE STATED IN DOCUMENTS AVAILABLE IN THE PUBLIC RECORD, SUCH AS
36 RIGHTS TO USE A ROAD OR PATH OR CUT TREES OR CROPS[] ? YES NO UNKN
37 NA
- 38 5. DOES ANYBODY ELSE CLAIM TO OWN ANY PART OF YOUR PROPERTY? YES NO
39 UNKN NA (IF YES, EXPLAIN BELOW)
- 40 6. HAS ANYONE DENIED YOU ACCESS TO THE PROPERTY OR MADE A FORMAL LEGAL
41 CLAIM CHALLENGING YOUR TITLE TO THE PROPERTY? YES NO UNKN NA (IF
42 YES, EXPLAIN BELOW)
- 43 7. ARE THERE ANY FEATURES OF THE PROPERTY SHARED IN COMMON WITH
44 ADJOINING LAND OWNERS OR A HOMEOWNERS ASSOCIATION, SUCH AS WALLS,
45 FENCES OR DRIVeways? YES NO UNKN NA (IF YES DESCRIBE BELOW)
- 46 8. ARE THERE ANY ELECTRIC OR GAS UTILITY SURCHARGES FOR LINE EXTEN-
47 SIONS, SPECIAL ASSESSMENTS OR HOMEOWNER OR OTHER ASSOCIATION FEES
48 THAT APPLY TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 49 9. ARE THERE CERTIFICATES OF OCCUPANCY RELATED TO THE PROPERTY? YES
50 NO UNKN NA (IF NO, EXPLAIN BELOW)

51 ENVIRONMENTAL

1 NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARD-
 2 ING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW
 3 TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY
 4 OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY
 5 INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING
 6 FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS THAT
 7 COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL HEALTH OR THE ENVIRON-
 8 MENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED OR STORED. THESE
 9 INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTICIDES AND INSECTI-
 10 CIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER AND WOOD PRESERVA-
 11 TIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS ASPHALT AND ROOFING
 12 MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS, BATTERIES, CLEANING
 13 SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD CLEANERS AND POOL
 14 CHEMICALS AND PRODUCTS CONTAINING MERCURY AND LEAD.

15 NOTE TO BUYER - IF CONTAMINATION OF THIS PROPERTY FROM PETROLEUM
 16 PRODUCTS AND/OR HAZARDOUS OR TOXIC SUBSTANCES IS A CONCERN TO YOU, YOU
 17 ARE URGED TO CONSIDER SOIL AND GROUNDWATER TESTING OF THIS PROPERTY.

18 10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A FEDERAL EMERGENCY
 19 MANAGEMENT AGENCY (FEMA) DESIGNATED FLOODPLAIN? YES NO UNKN NA
 20 (IF YES, EXPLAIN BELOW)

21 11. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN THE
 22 SPECIAL FLOOD HAZARD AREA ("SFHA"; "100-YEAR FLOODPLAIN") ACCORD-
 23 ING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA'S) CURRENT
 24 FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO UNKN NA (IF YES,
 25 EXPLAIN BELOW)

26 12. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN A
 27 MODERATE RISK FLOOD HAZARD AREA ("500-YEAR FLOODPLAIN") ACCORDING
 28 TO FEMA'S CURRENT FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO
 29 UNKN NA (IF YES, EXPLAIN BELOW)

30 13. IS THE PROPERTY SUBJECT TO ANY REQUIREMENT UNDER FEDERAL LAW TO
 31 OBTAIN AND MAINTAIN FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN
 32 NA (IF YES, EXPLAIN BELOW)

33 HOMES IN THE SPECIAL FLOOD HAZARD AREA, ALSO KNOWN AS HIGH RISK
 34 FLOOD ZONES, ON FEMA'S FLOOD INSURANCE RATE MAPS WITH MORTGAGES
 35 FROM FEDERALLY REGULATED OR INSURED LENDERS ARE REQUIRED TO OBTAIN
 36 AND MAINTAIN FLOOD INSURANCE. EVEN WHEN NOT REQUIRED, FEMA ENCOUR-
 37 AGES HOMEOWNERS IN HIGH RISK, MODERATE RISK, AND LOW RISK FLOOD
 38 ZONES TO PURCHASE FLOOD INSURANCE THAT COVERS THE STRUCTURE(S) AND
 39 THE PERSONAL PROPERTY WITHIN THE STRUCTURE(S). ALSO NOTE THAT
 40 HOMES IN COASTAL AREAS MAY BE SUBJECT TO INCREASED RISK OF FLOOD-
 41 ING OVER TIME DUE TO PROJECTED SEA LEVEL RISE AND INCREASED
 42 EXTREME STORMS CAUSED BY CLIMATE CHANGE WHICH MAY NOT BE REFLECTED
 43 IN CURRENT FLOOD INSURANCE RATE MAPS.

44 14. HAVE YOU EVER RECEIVED ASSISTANCE, OR ARE YOU AWARE OF ANY PREVI-
 45 OUS OWNERS RECEIVING ASSISTANCE, FROM THE FEDERAL EMERGENCY
 46 MANAGEMENT AGENCY (FEMA), THE U.S. SMALL BUSINESS ADMINISTRATION
 47 (SBA), OR ANY OTHER FEDERAL DISASTER FLOOD ASSISTANCE FOR FLOOD
 48 DAMAGE TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

49 FOR PROPERTIES THAT HAVE RECEIVED FEDERAL DISASTER ASSISTANCE, THE
 50 REQUIREMENT TO OBTAIN FLOOD INSURANCE PASSES DOWN TO ALL FUTURE
 51 OWNERS. FAILURE TO OBTAIN AND MAINTAIN FLOOD INSURANCE CAN RESULT
 52 IN AN INDIVIDUAL BEING INELIGIBLE FOR FUTURE ASSISTANCE.

53 15. IS THERE FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN NA (IF YES,
 54 ATTACH A COPY OF THE POLICY)

A STANDARD HOMEOWNER'S INSURANCE POLICY TYPICALLY DOES NOT COVER FLOOD DAMAGE. YOU ARE ENCOURAGED TO EXAMINE YOUR POLICY TO DETERMINE WHETHER YOU ARE COVERED.

16. IS THERE A FEMA ELEVATION CERTIFICATE AVAILABLE FOR THE PROPERTY? YES NO UNKN NA (IF YES, ATTACH A COPY OF THE CERTIFICATE) AN ELEVATION CERTIFICATE IS A FEMA FORM, COMPLETED BY A LICENSED SURVEYOR OR ENGINEER. THE FORM PROVIDES CRITICAL INFORMATION ABOUT THE FLOOD RISK OF THE PROPERTY AND IS USED BY FLOOD INSURANCE PROVIDERS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) TO HELP DETERMINE THE APPROPRIATE FLOOD INSURANCE RATING FOR THE PROPERTY. A BUYER MAY BE ABLE TO USE THE ELEVATION CERTIFICATE FROM A PREVIOUS OWNER FOR THEIR FLOOD INSURANCE POLICY.

17. HAVE YOU EVER FILED A CLAIM FOR FLOOD DAMAGE TO THE PROPERTY WITH ANY INSURANCE PROVIDER, INCLUDING THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP)? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

18. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[12-]~~ 19. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[13-]~~ 20. WAS THE PROPERTY EVER THE SITE OF A LANDFILL? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[14-]~~ 21. ARE THERE OR HAVE THERE EVER BEEN FUEL STORAGE TANKS ABOVE OR BELOW THE GROUND ON THE PROPERTY? YES NO UNKN NA IF YES, ARE THEY CURRENTLY IN USE? YES NO UNKN NA LOCATION(S) ARE THEY LEAKING OR HAVE THEY EVER LEAKED? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[15-]~~ 22. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE LOCATION OR LOCATIONS BELOW)

~~[16-]~~ 23. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION OR LOCATIONS BELOW)

~~[17-]~~ 24. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY OF THE REPORT)

~~[18-]~~ 25. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL OR ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO UNKN NA (IF YES, DESCRIBE BELOW)

~~[19-]~~ 26. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE? YES NO UNKN NA (IF YES, ATTACH REPORT(S))

STRUCTURAL

~~[20-]~~ 27. IS THERE ANY ROT OR WATER DAMAGE TO THE STRUCTURE OR STRUCTURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[21-]~~ 28. IS THERE ANY FIRE OR SMOKE DAMAGE TO THE STRUCTURE OR STRUCTURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[22-]~~ 29. IS THERE ANY TERMITE, INSECT, RODENT OR PEST INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

~~[23-]~~ 30. HAS THE PROPERTY BEEN TESTED FOR TERMITE, INSECT, RODENT OR PEST INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, PLEASE ATTACH REPORT(S))

~~[24-]~~ 31. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT, OTHER.)? ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE A TRANSFERABLE [~~WARRANTEE~~] WARRANTY ON THE ROOF IN EFFECT NOW? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

1 [25+] 32. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING
2 STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR
3 PARTITIONS[-]? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

4 MECHANICAL SYSTEMS & SERVICES

5 [26+] 33. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL,
6 PRIVATE, MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO
7 UNKN NA

8 [27+] 34. HAS THE WATER QUALITY AND/OR FLOW RATE BEEN TESTED? YES NO
9 UNKN NA (IF YES, DESCRIBE BELOW)

10 [28+] 35. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY -
11 PUBLIC SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR
12 CESSPOOL, AGE? _____ DATE LAST PUMPED? _____ FREQUENCY OF
13 PUMPING? _____ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF
14 YES, EXPLAIN BELOW)

15 [29+] 36. WHO IS YOUR ELECTRIC SERVICE PROVIDER? _____ WHAT IS THE
16 AMPERAGE? _____ DOES IT HAVE CIRCUIT BREAKERS OR FUSES?
17 _____ PRIVATE OR PUBLIC POLES? _____ ANY KNOWN MATERIAL
18 DEFECTS? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

19 [30+] 37. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT
20 RESULTED IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO
21 UNKN NA (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)

22 [~~31. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING WATER?
23 YES NO UNKN NA (IF YES, EXPLAIN BELOW)~~] 38. HAS THE STRUCTURE(S)
24 EXPERIENCED ANY WATER PENETRATION OR DAMAGE DUE TO SEEPAGE OR A
25 NATURAL FLOOD EVENT, SUCH AS FROM HEAVY RAINFALL, COASTAL STORM
26 SURGE, TIDAL INUNDATION OR RIVER OVERFLOW? YES NO UNKN NA (IF
27 YES, EXPLAIN BELOW)

28 ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING (IF YES,
29 EXPLAIN BELOW. USE ADDITIONAL SHEETS IF NECESSARY.):

| | | | | | |
|----|--|-----|----|------|----|
| 30 | [32+] 39. PLUMBING SYSTEM? | YES | NO | UNKN | NA |
| 31 | [33+] 40. SECURITY SYSTEM? | YES | NO | UNKN | NA |
| 32 | [34+] 41. CARBON MONOXIDE DETECTOR? | YES | NO | UNKN | NA |
| 33 | [35+] 42. SMOKE DETECTOR? | YES | NO | UNKN | NA |
| 34 | [36+] 43. FIRE SPRINKLER SYSTEM? | YES | NO | UNKN | NA |
| 35 | [37+] 44. SUMP PUMP? | YES | NO | UNKN | NA |
| 36 | [38+] 45. FOUNDATION/SLAB? | YES | NO | UNKN | NA |
| 37 | [39+] 46. INTERIOR WALLS/CEILINGS? | YES | NO | UNKN | NA |
| 38 | [40+] 47. EXTERIOR WALLS OR SIDING? | YES | NO | UNKN | NA |
| 39 | [41+] 48. FLOORS? | YES | NO | UNKN | NA |
| 40 | [42+] 49. CHIMNEY/FIREPLACE OR STOVE? | YES | NO | UNKN | NA |
| 41 | [43+] 50. PATIO/DECK? | YES | NO | UNKN | NA |
| 42 | [44+] 51. DRIVEWAY? | YES | NO | UNKN | NA |
| 43 | [45+] 52. AIR CONDITIONER? | YES | NO | UNKN | NA |
| 44 | [46+] 53. HEATING SYSTEM? | YES | NO | UNKN | NA |
| 45 | [47+] 54. HOT WATER HEATER? | YES | NO | UNKN | NA |
| 46 | [48+] 55. THE PROPERTY IS LOCATED IN THE | | | | |
| 47 | FOLLOWING SCHOOL DISTRICT | | | UNKN | |

48 NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE PROP-
49 erty (E.G. TAX RECORDS AND WETLAND AND [~~FLOOD PLAIN~~] FEMA'S CURRENT
50 FLOOD INSURANCE RATE MAPS AND ELEVATION CERTIFICATES)

1 THE SELLER SHOULD USE THIS AREA TO FURTHER EXPLAIN ANY ITEM ABOVE. IF
2 NECESSARY, ATTACH ADDITIONAL PAGES AND INDICATE HERE THE NUMBER OF ADDI-
3 TIONAL PAGES ATTACHED.

4 _____
5 _____
6 _____
7 _____

8 SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS
9 PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE
10 SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A
11 SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS
12 MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED
13 PREVIOUSLY, THE SELLER SHALL DELIVER A REVISED PROPERTY CONDITION
14 DISCLOSURE STATEMENT TO THE BUYER AS SOON AS PRACTICABLE. IN NO EVENT,
15 HOWEVER, SHALL A SELLER BE REQUIRED TO PROVIDE A REVISED PROPERTY CONDI-
16 TION DISCLOSURE STATEMENT AFTER THE TRANSFER OF TITLE FROM THE SELLER TO
17 THE BUYER OR OCCUPANCY BY THE BUYER, WHICHEVER IS EARLIER.

18 SELLER _____ DATE _____
19 SELLER _____ DATE _____

20 BUYER'S ACKNOWLEDGMENT: BUYER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
21 STATEMENT AND BUYER UNDERSTANDS THAT THIS INFORMATION IS A STATEMENT OF
22 CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE
23 SELLER. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR SELLER'S AGENT
24 AND IS NOT A SUBSTITUTE FOR ANY HOME, PEST, RADON OR OTHER INSPECTIONS
25 OR TESTING OF THE PROPERTY OR INSPECTION OF THE PUBLIC RECORDS.

26 BUYER _____ DATE _____
27 BUYER _____ DATE _____

28 § 2. Section 465 of the real property law, as added by chapter 456 of
29 the laws of 2001, is amended to read as follows:

30 § 465. [~~Remedy~~] Liability. 1. [~~In the event a seller fails to perform~~
31 ~~the duty prescribed in this article to deliver a disclosure statement~~
32 ~~prior to the signing by the buyer of a binding contract of sale, the~~
33 ~~buyer shall receive upon the transfer of title a credit of five hundred~~
34 ~~dollars against the agreed upon purchase price of the residential real~~
35 ~~property.] Nothing contained in this article shall be construed as
36 limiting any existing legal cause of action or remedy at law, in statute
37 or in equity.~~

38 2. Any seller who provides a property condition disclosure statement
39 or provides or fails to provide a revised property condition disclosure
40 statement shall be liable only for a willful failure to perform the
41 requirements of this article. For such a willful failure, the seller
42 shall be liable for the actual damages suffered by the buyer in addition
43 to any other existing equitable or statutory remedy.

44 § 3. Section 467 of the real property law is REPEALED.

45 § 4. The real property law is amended by adding a new section 231-b to
46 read as follows:

47 § 231-b. Flood history and risk notice in residential leases. 1. Every
48 residential lease shall provide notice of the following information
49 related to the previous flood history and current flood risk of the
50 leased premises, as follows:

1 (a) whether any or all of the leased premises is located wholly or
2 partially in a Federal Emergency Management Agency ("FEMA") designated
3 floodplain;

4 (b) whether any or all of the leased premises is located wholly or
5 partially in the Special Flood Hazard Area ("SFHA"; "100-year flood-
6 plain") according to FEMA's current Flood Insurance Rate Maps for the
7 leased premises' area;

8 (c) whether any or all of the leased premises is located wholly or
9 partially in a Moderate Risk Flood Hazard Area ("500-year floodplain")
10 according to FEMA's current Flood Insurance Rate Maps for the leased
11 premises' area; and

12 (d) whether the leased premises has experienced any flood damage due
13 to a natural flood event, such as heavy rainfall, coastal storm surge,
14 tidal inundation, or river overflow.

15 2. Every residential lease shall also contain the following notice to
16 tenants: "Flood insurance is available to renters through the Federal
17 Emergency Management Agency's (FEMA's) National Flood Insurance Program
18 (NFIP) to cover your personal property and contents in the event of a
19 flood. A standard renter's insurance policy does not typically cover
20 flood damage. You are encouraged to examine your policy to determine
21 whether you are covered."

22 § 5. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law. Effective immediately the addition, amend-
24 ment and/or repeal of any rule or regulation necessary for the implemen-
25 tation of this act on its effective date are authorized to be made and
26 completed on or before such date.