

9431

I N A S S E M B L Y

(PREFILED)

January 6, 2010

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

AN ACT to amend the real property law, in relation to requiring the
owner or landlord of a property to disclose whether property has ever
been used as a methamphetamine lab before such property is sold or
leased

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 240 of the real property law is amended by adding a
2 new subdivision 5 to read as follows:
3 5. THE TERM "CONTAMINATED" AS USED IN THIS ARTICLE MEANS THAT A PROP-
4 ERTY IS POLLUTED BY HAZARDOUS MATERIALS AS A RESULT OF THE USE,
5 PRODUCTION, OR PRESENCE OF METHAMPHETAMINE.
6 S 2. The real property law is amended by adding a new section 231-a to
7 read as follows:
8 S 231-A. DISCLOSURE OF METHAMPHETAMINE CONTAMINATED PROPERTY. 1. THE
9 TERM "CONTAMINATED" AS USED IN THIS SECTION MEANS THAT A PROPERTY IS
10 POLLUTED BY HAZARDOUS MATERIALS AS A RESULT OF THE USE, PRODUCTION, OR
11 PRESENCE OF METHAMPHETAMINE.
12 2. IF A LESSOR OFFERING TO RENT REAL PROPERTY HAS ACTUAL KNOWLEDGE
13 THAT THE PROPERTY IS OR HAS EVER BEEN CONTAMINATED FROM THE USE, STOR-
14 AGE, OR MANUFACTURE OF METHAMPHETAMINES, THE LESSOR SHALL INFORM ANY
15 POTENTIAL LESSEE OF THE EXISTENCE OF SUCH CONTAMINATION PRIOR TO ENTER-
16 ING INTO A CONTRACT FOR THE LEASE OF SUCH PROPERTY.
17 S 3. Section 242 of the real property law is amended by adding a new
18 subdivision 4 to read as follows:
19 4. ANY PERSON, FIRM, COMPANY, PARTNERSHIP OR CORPORATION OFFERING TO
20 SELL REAL PROPERTY HAS ACTUAL KNOWLEDGE THAT THE PROPERTY IS OR HAS EVER
21 BEEN CONTAMINATED FROM THE USE, STORAGE, OR MANUFACTURE OF METHAMPHETA-
22 MINES, THE OWNER SHALL INFORM ANY PURCHASER OF THE EXISTENCE OF SUCH
23 CONTAMINATION PRIOR TO ENTERING INTO A CONTRACT FOR THE SALE/PURCHASE OF
24 SUCH PROPERTY.
25 S 4. Subdivision 2 of section 462 of the real property law, as added
26 by chapter 456 of the laws of 2001, is amended to read as follows:
27 2. The following shall be the disclosure form:

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

LBD15025-01-9

1 PROPERTY CONDITION DISCLOSURE STATEMENT

2 NAME OF SELLER OR SELLERS:

3 PROPERTY ADDRESS:

4 THE PROPERTY CONDITION DISCLOSURE ACT REQUIRES THE SELLER OF RESIDEN-
5 TIAL REAL PROPERTY TO CAUSE THIS DISCLOSURE STATEMENT OR A COPY THEREOF
6 TO BE DELIVERED TO A BUYER OR BUYER'S AGENT PRIOR TO THE SIGNING BY THE
7 BUYER OF A BINDING CONTRACT OF SALE.

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

15 A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM
16 MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE
17 TRANSFER OF TITLE. IN THE EVENT A SELLER FAILS TO PERFORM THE DUTY
18 PRESCRIBED IN THIS ARTICLE TO DELIVER A DISCLOSURE STATEMENT PRIOR TO
19 THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE, THE BUYER SHALL
20 RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS
21 AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPERTY.

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

29 INSTRUCTIONS TO THE SELLER:

30 (a) ANSWER ALL QUESTIONS BASED UPON YOUR ACTUAL KNOWLEDGE.

31 (b) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS
32 REQUIRED.

33 (c) COMPLETE THIS FORM YOURSELF.

34 (d) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK "NA" (NON-AP-
35 PPLICABLE). IF YOU DO NOT KNOW THE ANSWER CHECK "UNKN" (UNKNOWN).

36 SELLER'S STATEMENT: THE SELLER MAKES THE FOLLOWING REPRESENTATIONS TO
37 THE BUYER BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AT THE TIME OF SIGN-
38 ING THIS DOCUMENT. THE SELLER AUTHORIZES HIS OR HER AGENT, IF ANY, TO
39 PROVIDE A COPY OF THIS STATEMENT TO A PROSPECTIVE BUYER OF THE RESIDEN-
40 TIAL REAL PROPERTY. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER
41 AND ARE NOT THE REPRESENTATIONS OF THE SELLER'S AGENT.

42 GENERAL INFORMATION

43 1. HOW LONG HAVE YOU OWNED THE PROPERTY?

44 2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?

45 3. WHAT IS THE AGE OF THE STRUCTURE OR STRUCTURES? NOTE TO BUYER--IF
46 THE STRUCTURE WAS BUILT BEFORE 1978 YOU ARE ENCOURAGED TO INVESTI-
47 GATE FOR THE PRESENCE OF LEAD BASED PAINT.

48 4. DOES ANYBODY OTHER THAN YOURSELF HAVE A LEASE, EASEMENT OR ANY
49 OTHER RIGHT TO USE OR OCCUPY ANY PART OF YOUR PROPERTY OTHER THAN

- 1 THOSE STATED IN DOCUMENTS AVAILABLE IN THE PUBLIC RECORD, SUCH AS
2 RIGHTS TO USE A ROAD OR PATH OR CUT TREES OR CROPS. YES NO UNKN NA
3 5. DOES ANYBODY ELSE CLAIM TO OWN ANY PART OF YOUR PROPERTY? YES NO
4 UNKN NA (IF YES, EXPLAIN BELOW)
5 6. HAS ANYONE DENIED YOU ACCESS TO THE PROPERTY OR MADE A FORMAL LEGAL
6 CLAIM CHALLENGING YOUR TITLE TO THE PROPERTY? YES NO UNKN NA (IF
7 YES, EXPLAIN BELOW)
8 7. ARE THERE ANY FEATURES OF THE PROPERTY SHARED IN COMMON WITH
9 ADJOINING LAND OWNERS OR A HOMEOWNERS ASSOCIATION, SUCH AS WALLS,
10 FENCES OR DRIVEWAYS? YES NO UNKN NA (IF YES DESCRIBE BELOW)
11 8. ARE THERE ANY ELECTRIC OR GAS UTILITY SURCHARGES FOR LINE EXTEN-
12 SIONS, SPECIAL ASSESSMENTS OR HOMEOWNER OR OTHER ASSOCIATION FEES
13 THAT APPLY TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
14 9. ARE THERE CERTIFICATES OF OCCUPANCY RELATED TO THE PROPERTY? YES
15 NO UNKN NA (IF NO, EXPLAIN BELOW)

16 ENVIRONMENTAL

17 NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARD-
18 ING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW
19 TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY
20 OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY
21 INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING
22 FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS THAT
23 COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL HEALTH OR THE ENVIRON-
24 MENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED OR STORED. THESE
25 INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTICIDES AND INSECTI-
26 CIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER AND WOOD PRESERVA-
27 TIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS ASPHALT AND ROOFING
28 MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS, BATTERIES, CLEANING
29 SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD CLEANERS AND POOL
30 CHEMICALS AND PRODUCTS CONTAINING MERCURY AND LEAD.

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

- 34 10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED FLOODPLAIN?
35 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
36 11. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND?
37 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
38 12. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT? YES NO
39 UNKN NA (IF YES, EXPLAIN BELOW)
40 13. WAS THE PROPERTY EVER THE SITE OF A LANDFILL? YES NO UNKN NA
41 (IF YES, EXPLAIN BELOW)
42 14. ARE THERE OR HAVE THERE EVER BEEN FUEL STORAGE TANKS ABOVE OR
43 BELOW THE GROUND ON THE PROPERTY? YES NO UNKN NA IF YES, ARE
44 THEY CURRENTLY IN USE? YES NO UNKN NA LOCATION(S) ARE THEY LEAKING
45 OR HAVE THEY EVER LEAKED? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
46 15. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE
47 LOCATION OR LOCATIONS BELOW)
48 16. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION
49 OR LOCATIONS BELOW)
50 17. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY
51 OF THE REPORT)
52 18. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL OR
53 ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR

1 TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE
2 PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO
3 UNKN NA (IF YES, DESCRIBE BELOW)
4 19. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL, MOTOR
5 OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETROLEUM
6 PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE? YES NO
7 UNKN NA (IF YES, ATTACH REPORT(S))
8 20. IS OR HAS THE PROPERTY EVER BEEN CONTAMINATED FROM THE USE, STOR-
9 AGE, OR MANUFACTURE OF METHAMPHETAMINES? YES NO UNKN

10 STRUCTURAL
11 [20.] 21. IS THERE ANY ROT OR WATER DAMAGE TO THE STRUCTURE OR STRUC-
12 TURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
13 [21.] 22. IS THERE ANY FIRE OR SMOKE DAMAGE TO THE STRUCTURE OR STRUC-
14 TURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
15 [22.] 23. IS THERE ANY TERMITE, INSECT, RODENT OR PEST INFESTATION OR
16 DAMAGE? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
17 [23.] 24. HAS THE PROPERTY BEEN TESTED FOR TERMITE, INSECT, RODENT OR
18 PEST INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, PLEASE ATTACH
19 REPORT(S))
20 [24.] 25. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT,
21 OTHER.)? ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE
22 A TRANSFERABLE WARRANTEE ON THE ROOF IN EFFECT NOW? YES NO UNKN NA
23 (IF YES, EXPLAIN BELOW)
24 [25.] 26. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING
25 STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR
26 PARTITIONS. YES NO UNKN NA (IF YES, EXPLAIN BELOW)

27 MECHANICAL SYSTEMS & SERVICES
28 [26.] 27. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL,
29 PRIVATE, MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO
30 UNKN NA
31 [27.] 28. HAS THE WATER QUALITY AND/OR FLOW RATE BEEN TESTED? YES NO
32 UNKN NA (IF YES, DESCRIBE BELOW)
33 [28.] 29. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY -
34 PUBLIC SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR
35 CESSPOOL, AGE? _____ DATE LAST PUMPED? _____ FREQUENCY OF
36 PUMPING? _____ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF
37 YES, EXPLAIN BELOW)
38 [29.] 30. WHO IS YOUR ELECTRIC SERVICE PROVIDER? _____ WHAT IS THE
39 AMPERAGE? _____ DOES IT HAVE CIRCUIT BREAKERS OR FUSES?
40 _____ PRIVATE OR PUBLIC POLES? _____ ANY KNOWN MATERIAL
41 DEFECTS? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
42 [30.] 31. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT
43 RESULTED IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO
44 UNKN NA (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)
45 [31.] 32. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING
46 WATER? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

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

49	[32.] 33. PLUMBING SYSTEM?	YES	NO	UNKN	NA
50	[33.] 34. SECURITY SYSTEM?	YES	NO	UNKN	NA
51	[34.] 35. CARBON MONOXIDE DETECTOR?	YES	NO	UNKN	NA
52	[35.] 36. SMOKE DETECTOR?	YES	NO	UNKN	NA

1	[36.]	37. FIRE SPRINKLER SYSTEM?	YES	NO	UNKN	NA
2	[37.]	38. SUMP PUMP?	YES	NO	UNKN	NA
3	[38.]	39. FOUNDATION/SLAB?	YES	NO	UNKN	NA
4	[39.]	40. INTERIOR WALLS/CEILINGS?	YES	NO	UNKN	NA
5	[40.]	41. EXTERIOR WALLS OR SIDING?	YES	NO	UNKN	NA
6	[41.]	42. FLOORS?	YES	NO	UNKN	NA
7	[42.]	43. CHIMNEY/FIREPLACE OR STOVE?	YES	NO	UNKN	NA
8	[43.]	44. PATIO/DECK?	YES	NO	UNKN	NA
9	[44.]	45. DRIVEWAY?	YES	NO	UNKN	NA
10	[45.]	46. AIR CONDITIONER?	YES	NO	UNKN	NA
11	[46.]	47. HEATING SYSTEM?	YES	NO	UNKN	NA
12	[47.]	48. HOT WATER HEATER?	YES	NO	UNKN	NA
13	[48.]	49. THE PROPERTY IS LOCATED IN THE				
14		FOLLOWING SCHOOL DISTRICT			UNKN	

15 NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE PROP-
16 ERTY (E.G. TAX RECORDS AND WETLAND AND FLOOD PLAIN MAPS)
17 THE SELLER SHOULD USE THIS AREA TO FURTHER EXPLAIN ANY ITEM ABOVE. IF
18 NECESSARY, ATTACH ADDITIONAL PAGES AND INDICATE HERE THE NUMBER OF ADDI-
19 TIONAL PAGES ATTACHED.

20 _____
21 _____
22 _____
23 _____

24 SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS
25 PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE
26 SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A
27 SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS
28 MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED
29 PREVIOUSLY, THE SELLER SHALL DELIVER A REVISED PROPERTY CONDITION
30 DISCLOSURE STATEMENT TO THE BUYER AS SOON AS PRACTICABLE. IN NO EVENT,
31 HOWEVER, SHALL A SELLER BE REQUIRED TO PROVIDE A REVISED PROPERTY CONDI-
32 TION DISCLOSURE STATEMENT AFTER THE TRANSFER OF TITLE FROM THE SELLER TO
33 THE BUYER OR OCCUPANCY BY THE BUYER, WHICHEVER IS EARLIER.

34 SELLER _____ DATE _____
35 SELLER _____ DATE _____

36 BUYER'S ACKNOWLEDGMENT: BUYER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
37 STATEMENT AND BUYER UNDERSTANDS THAT THIS INFORMATION IS A STATEMENT OF
38 CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE
39 SELLER. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR SELLER'S AGENT
40 AND IS NOT A SUBSTITUTE FOR ANY HOME, PEST, RADON OR OTHER INSPECTIONS
41 OR TESTING OF THE PROPERTY OR INSPECTION OF THE PUBLIC RECORDS.

42 BUYER _____ DATE _____
43 BUYER _____ DATE _____

44 S 5. This act shall take effect immediately.