

7070

I N   S E N A T E

April 23, 2014

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Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the real property law, in relation to property condition disclosure statements

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

1     Section 1. Subdivision 1 of section 15-0507 of the environmental  
2     conservation law, as amended by chapter 364 of the laws of 1999, is  
3     amended to read as follows:

4     1. Any owner of a dam or other structure which impounds waters shall  
5     at all times operate and maintain said structure and all appurtenant  
6     structures in a safe condition. As used in this section and section  
7     71-1109 of this chapter, "owner" means any person or local public corpo-  
8     ration who owns, erects, reconstructs, repairs, maintains or uses a dam  
9     or other structure which impounds waters. The commissioner may promul-  
10    gate regulations requiring any owner to prepare and implement a safety  
11    program for such dam or structure as necessary to safeguard life, prop-  
12    erty or natural resources. Regulations governing the safety program may  
13    include requirements for inspections, monitoring, maintenance and opera-  
14    tion, emergency action planning, financial security, DISCLOSURES PURSU-  
15    ANT TO SECTION FOUR HUNDRED SIXTY-TWO OF THE REAL PROPERTY LAW, record-  
16    keeping and reporting or any other requirement the commissioner deems  
17    necessary to safeguard life, property or natural resources. Such  
18    requirement shall only apply to those dams or other structures that  
19    impound waters which pose, in the event of failure, a threat of personal  
20    injury, substantial property damage or substantial natural resource  
21    damage.

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

24    2. The following shall be the disclosure form:

25                                PROPERTY CONDITION DISCLOSURE STATEMENT

26    NAME OF SELLER OR SELLERS:

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

LBD14706-02-4

## 1 PROPERTY ADDRESS:

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

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

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

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

## 27 INSTRUCTIONS TO THE SELLER:

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

29 (b) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS  
30 REQUIRED.

31 (c) COMPLETE THIS FORM YOURSELF.

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

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

## 40 GENERAL INFORMATION

41 1. HOW LONG HAVE YOU OWNED THE PROPERTY?

42 2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?

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

46 4. DOES ANYBODY OTHER THAN YOURSELF HAVE A LEASE, EASEMENT OR ANY  
47 OTHER RIGHT TO USE OR OCCUPY ANY PART OF YOUR PROPERTY OTHER THAN  
48 THOSE STATED IN DOCUMENTS AVAILABLE IN THE PUBLIC RECORD, SUCH AS  
49 RIGHTS TO USE A ROAD OR PATH OR CUT TREES OR CROPS. YES NO UNKN NA

50 5. DOES ANYBODY ELSE CLAIM TO OWN ANY PART OF YOUR PROPERTY? YES NO  
51 UNKN NA (IF YES, EXPLAIN BELOW)

6. HAS ANYONE DENIED YOU ACCESS TO THE PROPERTY OR MADE A FORMAL LEGAL CLAIM CHALLENGING YOUR TITLE TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
7. ARE THERE ANY FEATURES OF THE PROPERTY SHARED IN COMMON WITH ADJOINING LAND OWNERS OR A HOMEOWNERS ASSOCIATION, SUCH AS WALLS, FENCES OR DRIVEWAYS? YES NO UNKN NA (IF YES DESCRIBE BELOW)
8. ARE THERE ANY ELECTRIC OR GAS UTILITY SURCHARGES FOR LINE EXTENSIONS, SPECIAL ASSESSMENTS OR HOMEOWNER OR OTHER ASSOCIATION FEES THAT APPLY TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
9. ARE THERE CERTIFICATES OF OCCUPANCY RELATED TO THE PROPERTY? YES NO UNKN NA (IF NO, EXPLAIN BELOW)
10. ARE THERE ANY DAMS OR OTHER WATER IMPOUNDMENT STRUCTURES LOCATED ON OR ABUTTING THE PROPERTY? YES NO UNKN NA
- 10-A. ARE THERE ANY DAMS OR WATER IMPOUNDMENT STRUCTURES ON THE PROPERTY THAT WOULD SUBJECT THE OWNER TO LIABILITY UNDER SECTION 15-0507 OF THE ENVIRONMENTAL CONSERVATION LAW? YES NO UNKN NA

## ENVIRONMENTAL

NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARDING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS THAT COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL HEALTH OR THE ENVIRONMENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED OR STORED. THESE INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTICIDES AND INSECTICIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER AND WOOD PRESERVATIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS ASPHALT AND ROOFING MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS, BATTERIES, CLEANING SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD CLEANERS AND POOL CHEMICALS AND PRODUCTS CONTAINING MERCURY AND LEAD.

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

- [10] 11. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED FLOODPLAIN? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- [11] 12. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- [12] 13. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- [13] 14. WAS THE PROPERTY EVER THE SITE OF A LANDFILL? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- [14] 15. 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] 16. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE LOCATION OR LOCATIONS BELOW)
- [16] 17. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION OR LOCATIONS BELOW)
- [17] 18. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY OF THE REPORT)

1 [18] 19. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL  
2 OR ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR  
3 TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE  
4 PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO  
5 UNKN NA (IF YES, DESCRIBE BELOW)  
6 [19] 20. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL,  
7 MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETRO-  
8 LEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE?  
9 YES NO UNKN NA (IF YES, ATTACH REPORT(S))

## 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 &amp; 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 3. This act shall take effect immediately.