

STATE OF NEW YORK

2142--A

2017-2018 Regular Sessions

IN SENATE

January 12, 2017

Introduced by Sen. ALCANTARA -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to requiring the disclosure of indoor mold history upon the sale of certain real property

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 RESIDEN-
8 TIAL REAL PROPERTY TO CAUSE THIS DISCLOSURE STATEMENT OR A COPY THEREOF
9 TO BE DELIVERED TO A BUYER OR BUYER'S AGENT PRIOR TO THE SIGNING BY THE
10 BUYER OF A BINDING CONTRACT OF SALE.

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

18 A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM
19 MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE
20 TRANSFER OF TITLE. IN THE EVENT A SELLER FAILS TO PERFORM THE DUTY
21 PRESCRIBED IN THIS ARTICLE TO DELIVER A DISCLOSURE STATEMENT PRIOR TO
22 THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE, THE BUYER SHALL

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

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1 RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS
2 AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPERTY.
3 "RESIDENTIAL REAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY A ONE TO
4 FOUR FAMILY DWELLING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCU-
5 PIED, WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS,
6 BUT SHALL NOT REFER TO (A) UNIMPROVED REAL PROPERTY UPON WHICH SUCH
7 DWELLINGS ARE TO BE CONSTRUCTED OR (B) CONDOMINIUM UNITS OR COOPERATIVE
8 APARTMENTS OR (C) PROPERTY ON A HOMEOWNERS' ASSOCIATION THAT IS NOT
9 OWNED IN FEE SIMPLE BY THE SELLER.

10 INSTRUCTIONS TO THE SELLER:

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

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

23 GENERAL INFORMATION

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

46 ENVIRONMENTAL

47 NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARD-
48 ING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW
49 TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY
50 OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY
51 INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING
52 FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS OR
53 OTHER MATERIAL THAT COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL

1 HEALTH OR THE ENVIRONMENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED
2 OR STORED. THESE INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTI-
3 CIDES AND INSECTICIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER
4 AND WOOD PRESERVATIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS
5 ASPHALT AND ROOFING MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS,
6 BATTERIES, CLEANING SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD
7 CLEANERS [~~AND~~], POOL CHEMICALS [~~AND~~], PRODUCTS CONTAINING MERCURY AND
8 LEAD AND INDOOR MOLD.

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

12 10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED FLOODPLAIN?
13 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
14 11. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND?
15 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
16 12. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT? YES NO
17 UNKN NA (IF YES, EXPLAIN BELOW)
18 13. WAS THE PROPERTY EVER THE SITE OF A LANDFILL? YES NO UNKN NA
19 (IF YES, EXPLAIN BELOW)
20 14. ARE THERE OR HAVE THERE EVER BEEN FUEL STORAGE TANKS ABOVE OR
21 BELOW THE GROUND ON THE PROPERTY? YES NO UNKN NA IF YES, ARE
22 THEY CURRENTLY IN USE? YES NO UNKN NA LOCATION(S) ARE THEY LEAKING
23 OR HAVE THEY EVER LEAKED? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
24 15. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE
25 LOCATION OR LOCATIONS BELOW)
26 16. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION
27 OR LOCATIONS BELOW)
28 17. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY
29 OF THE REPORT)
30 18. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL OR
31 ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR
32 TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE
33 PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO
34 UNKN NA (IF YES, DESCRIBE BELOW)
35 19. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL, MOTOR
36 OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETROLEUM
37 PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE? YES NO
38 UNKN NA (IF YES, ATTACH REPORT(S))
39 19-a. HAS THE PROPERTY BEEN TESTED FOR INDOOR MOLD? YES NO UNKN (IF
40 YES, ATTACH A COPY OF THE REPORT)

41 STRUCTURAL

42 20. IS THERE ANY ROT OR WATER DAMAGE TO THE STRUCTURE OR STRUCTURES?
43 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
44 21. IS THERE ANY FIRE OR SMOKE DAMAGE TO THE STRUCTURE OR STRUCTURES?
45 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
46 22. IS THERE ANY TERMITE, INSECT, RODENT OR PEST INFESTATION OR
47 DAMAGE? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
48 23. HAS THE PROPERTY BEEN TESTED FOR TERMITE, INSECT, RODENT OR PEST
49 INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, PLEASE ATTACH
50 REPORT(S))
51 24. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT, OTHER.)?
52 ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE A TRANS-

1 FERABLE WARRANTEE ON THE ROOF IN EFFECT NOW? YES NO UNKN NA (IF
2 YES, EXPLAIN BELOW)
3 25. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING
4 STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR
5 PARTITIONS. YES NO UNKN NA (IF YES, EXPLAIN BELOW)

6 MECHANICAL SYSTEMS & SERVICES

7 26. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL, PRIVATE,
8 MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO UNKN NA
9 27. HAS THE WATER QUALITY AND/OR FLOW RATE BEEN TESTED? YES NO UNKN NA
10 (IF YES, DESCRIBE BELOW)
11 28. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY - PUBLIC
12 SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR CESSPOOL,
13 AGE? _____ DATE LAST PUMPED? _____ FREQUENCY OF PUMPING?
14 _____ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF YES,
15 EXPLAIN BELOW)
16 29. WHO IS YOUR ELECTRIC SERVICE PROVIDER? _____ WHAT IS THE AMPER-
17 AGE? _____ DOES IT HAVE CIRCUIT BREAKERS OR FUSES? _____
18 PRIVATE OR PUBLIC POLES? _____ ANY KNOWN MATERIAL DEFECTS? YES
19 NO UNKN NA (IF YES, EXPLAIN BELOW)
20 30. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT RESULTED
21 IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO UNKN NA
22 (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)
23 31. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING WATER? YES
24 NO UNKN NA (IF YES, EXPLAIN BELOW)
25 ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING (IF
26 YES, EXPLAIN BELOW. USE ADDITIONAL SHEETS IF NECESSARY.):

27 32. PLUMBING SYSTEM? YES NO UNKN NA
28 33. SECURITY SYSTEM? YES NO UNKN NA
29 34. CARBON MONOXIDE DETECTOR? YES NO UNKN NA
30 35. SMOKE DETECTOR? YES NO UNKN NA
31 36. FIRE SPRINKLER SYSTEM? YES NO UNKN NA
32 37. SUMP PUMP? YES NO UNKN NA
33 38. FOUNDATION/SLAB? YES NO UNKN NA
34 39. INTERIOR WALLS/CEILINGS? YES NO UNKN NA
35 40. EXTERIOR WALLS OR SIDING? YES NO UNKN NA
36 41. FLOORS? YES NO UNKN NA
37 42. CHIMNEY/FIREPLACE OR STOVE? YES NO UNKN NA
38 43. PATIO/DECK? YES NO UNKN NA
39 44. DRIVEWAY? YES NO UNKN NA
40 45. AIR CONDITIONER? YES NO UNKN NA
41 46. HEATING SYSTEM? YES NO UNKN NA
42 47. HOT WATER HEATER? YES NO UNKN NA

43 48. THE PROPERTY IS LOCATED IN THE FOLLOWING SCHOOL DISTRICT UNKN
44 NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE
45 PROPERTY (E.G. TAX RECORDS AND WETLAND AND FLOOD PLAIN MAPS)

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

49 _____
50 _____
51 _____
52 _____

53 SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS
54 PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE
55 SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A

1 SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS
2 MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED
3 PREVIOUSLY, THE SELLER SHALL DELIVER A REVISED PROPERTY CONDITION
4 DISCLOSURE STATEMENT TO THE BUYER AS SOON AS PRACTICABLE. IN NO EVENT,
5 HOWEVER, SHALL A SELLER BE REQUIRED TO PROVIDE A REVISED PROPERTY CONDI-
6 TION DISCLOSURE STATEMENT AFTER THE TRANSFER OF TITLE FROM THE SELLER TO
7 THE BUYER OR OCCUPANCY BY THE BUYER, WHICHEVER IS EARLIER.

8 SELLER_____ DATE_____

9 SELLER_____ DATE_____

10 BUYER'S ACKNOWLEDGMENT: BUYER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
11 STATEMENT AND BUYER UNDERSTANDS THAT THIS INFORMATION IS A STATEMENT OF
12 CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE
13 SELLER. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR SELLER'S AGENT
14 AND IS NOT A SUBSTITUTE FOR ANY HOME, PEST, RADON OR OTHER INSPECTIONS
15 OR TESTING OF THE PROPERTY OR INSPECTION OF THE PUBLIC RECORDS.

16 BUYER_____ DATE_____

17 BUYER_____ DATE _____

18 § 2. This act shall take effect on the one hundred eightieth day
19 after it shall have become a law; provided, however, that this act shall
20 apply to contracts of sale for real property entered into on or after
21 such effective date.