

# STATE OF NEW YORK

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1446

2019-2020 Regular Sessions

## IN SENATE

January 14, 2019

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Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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  
23 RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS  
24 AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPERTY.

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

LBD01848-02-9

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

INSTRUCTIONS TO THE SELLER:

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

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

(c) COMPLETE THIS FORM YOURSELF.

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

SELLER'S STATEMENT: THE SELLER MAKES THE FOLLOWING REPRESENTATIONS TO THE BUYER BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AT THE TIME OF SIGNING THIS DOCUMENT. THE SELLER AUTHORIZES HIS OR HER AGENT, IF ANY, TO PROVIDE A COPY OF THIS STATEMENT TO A PROSPECTIVE BUYER OF THE RESIDENTIAL REAL PROPERTY. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF THE SELLER'S AGENT.

GENERAL INFORMATION

1. HOW LONG HAVE YOU OWNED THE PROPERTY?

2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?

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

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

5. DOES ANYBODY ELSE CLAIM TO OWN ANY PART OF YOUR PROPERTY? YES NO 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)

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 OR OTHER MATERIAL 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, PESTI-

1 CIDES AND INSECTICIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER  
2 AND WOOD PRESERVATIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS  
3 ASPHALT AND ROOFING MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS,  
4 BATTERIES, CLEANING SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD  
5 CLEANERS [~~AND~~], POOL CHEMICALS [~~AND~~], PRODUCTS CONTAINING MERCURY AND  
6 LEAD AND INDOOR MOLD.

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

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

39 STRUCTURAL

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

25. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING  
STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR  
PARTITIONS. YES NO UNKN NA (IF YES, EXPLAIN BELOW)

MECHANICAL SYSTEMS & SERVICES

26. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL, PRIVATE,  
MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO UNKN NA

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

28. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY - PUBLIC  
SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR CESSPOOL,  
AGE? \_\_\_\_\_ DATE LAST PUMPED? \_\_\_\_\_ FREQUENCY OF PUMPING?  
\_\_\_\_\_ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF YES,  
EXPLAIN BELOW)

29. WHO IS YOUR ELECTRIC SERVICE PROVIDER? \_\_\_\_\_ WHAT IS THE AMPER-  
AGE? \_\_\_\_\_ DOES IT HAVE CIRCUIT BREAKERS OR FUSES? \_\_\_\_\_  
PRIVATE OR PUBLIC POLES? \_\_\_\_\_ ANY KNOWN MATERIAL DEFECTS? YES  
NO UNKN NA (IF YES, EXPLAIN BELOW)

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

31. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING WATER? YES  
NO UNKN NA (IF YES, EXPLAIN BELOW)

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

32. PLUMBING SYSTEM? YES NO UNKN NA

33. SECURITY SYSTEM? YES NO UNKN NA

34. CARBON MONOXIDE DETECTOR? YES NO UNKN NA

35. SMOKE DETECTOR? YES NO UNKN NA

36. FIRE SPRINKLER SYSTEM? YES NO UNKN NA

37. SUMP PUMP? YES NO UNKN NA

38. FOUNDATION/SLAB? YES NO UNKN NA

39. INTERIOR WALLS/CEILINGS? YES NO UNKN NA

40. EXTERIOR WALLS OR SIDING? YES NO UNKN NA

41. FLOORS? YES NO UNKN NA

42. CHIMNEY/FIREPLACE OR STOVE? YES NO UNKN NA

43. PATIO/DECK? YES NO UNKN NA

44. DRIVEWAY? YES NO UNKN NA

45. AIR CONDITIONER? YES NO UNKN NA

46. HEATING SYSTEM? YES NO UNKN NA

47. HOT WATER HEATER? YES NO UNKN NA

48. THE PROPERTY IS LOCATED IN THE FOLLOWING SCHOOL DISTRICT UNKN

NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE  
PROPERTY (E.G. TAX RECORDS AND WETLAND AND FLOOD PLAIN MAPS)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS  
PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE  
SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A  
SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS  
MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED

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

6 SELLER\_\_\_\_\_ DATE\_\_\_\_\_

7 SELLER\_\_\_\_\_ DATE\_\_\_\_\_

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

14 BUYER\_\_\_\_\_ DATE\_\_\_\_\_

15 BUYER\_\_\_\_\_ DATE\_\_\_\_\_

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