

# STATE OF NEW YORK

2353--A

2023-2024 Regular Sessions

## IN SENATE

January 20, 2023

Introduced by Sens. KAVANAGH, BAILEY, BRESLIN, BRISPORT, BROUK, CLEARE, COONEY, FERNANDEZ, HOYLMAN-SIGAL, JACKSON, KRUEGER, MANNION, MAY, MYRIE, PARKER, RIVERA, RYAN, SALAZAR, SEPULVEDA, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- 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 lead-based paint test reports in real estate transactions

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

1 Section 1. Legislative findings. a. The legislature hereby finds and  
2 declares that lead poisoning of children persists as one of the most  
3 prevalent and preventable environmental diseases in New York state.  
4 Nearly 100,000 children were newly identified with levels of lead in  
5 their blood at five micrograms per deciliter (mcg/dL) in New York state  
6 between 2011 and 2015.  
7 b. Medical research indicates that children can suffer permanent brain  
8 damage at blood levels even lower than 5 mcg/dL, and that there is no  
9 level of lead ingestion that is without adverse impact; indeed, in 2021  
10 the federal Centers for Disease Control and Prevention revised the blood  
11 lead reference level downward to 3.5 mcg/dL.  
12 c. Black children and children from low-income households are consist-  
13 ently found to have higher levels of lead in their blood than their  
14 white peers or their peers from higher income households.  
15 d. The predominant cause of lead poisoning in young children is the  
16 ingestion of lead particles from deteriorating or abraded lead-based  
17 paint from older and poorly maintained residences. Although New York  
18 state banned the sale of lead-based paint in 1970, (1.1970, ch. 338) 74%

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

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1 of New York's housing stock was constructed prior to 1970 and lead-based  
2 paint was available outside of the state until 1978. New York state has  
3 both the nation's greatest number (over 4 million units), the highest  
4 percentage (55.08%) of pre-1960 and pre-1950 (41.0%) housing, and the  
5 oldest housing inventory among the fifty states. At least ninety percent  
6 of lead-based paint still exists in occupied housing built before 1960.  
7 New York state's older housing stock places residents at great risk of  
8 exposure to lead hazards, with low-income children living in older hous-  
9 ing having the highest risk of lead poisoning.

10 e. Knowledge of lead-based paint hazards, their control, mitigation,  
11 abatement, and risk avoidance is not sufficiently widespread. In addi-  
12 tion, while federal law requires the disclosure by sellers of real prop-  
13 erty of knowledge of the existence of lead-based paint and lead-based  
14 paint hazards, and encourages potential buyers to conduct inspections  
15 for lead-based paint, these mechanisms neither mandate that such  
16 inspections take place either by sellers or buyers. This gap in disclo-  
17 sure requirements results in residential property being transferred  
18 without any knowledge of the potential for such property to cause lead  
19 poisoning and the attendant liabilities.

20 f. Local county health departments lack sufficient information as to  
21 which housing contains lead-based paint and the locations of such lead-  
22 based paint, resulting in less cost-effective prevention of lead poison-  
23 ing, avoidable harm to children's health, and wasted public resources.

24 g. The purposes of this act are to assure that properties that have  
25 not been previously tested for lead-based paint are not simply trans-  
26 ferred to new owners without knowledge of whether there is lead-based  
27 paint present, and to better utilize the existing federal laws that  
28 mandate disclosure of lead-based paint and lead-based paint hazards and  
29 to aid in the prevention of lead poisoning. This act is not intended to  
30 and does not diminish the responsibility of buyers to carefully examine  
31 the property which they intend to purchase and public records pertaining  
32 to the property. This act is not intended to and does not limit existing  
33 responsibilities by a seller, buyer or agent concerning the condition of  
34 the property or potential liabilities or remedies at law, statute or in  
35 equity.

36 This act will significantly improve the transfer process and better  
37 serve the interests of all parties to a home purchase. It will increase  
38 clarity regarding the nature of the property and will provide greater  
39 certainty to contracts entered into by better informed buyers and sell-  
40 ers. As well, it will provide incentive to owners to voluntarily test  
41 their property prior to sale.

42 h. This act will complement existing state and local laws on lead  
43 poisoning prevention. Section 1377 of the public health law, enacted in  
44 2023, requires the department of health to develop a registry of all  
45 rental residential dwellings with two or more units built before 1980  
46 within communities of concern outside the city of New York, which will  
47 also require such dwellings be inspected for lead hazards at least every  
48 three years. This act will ensure equity of information for purchasers  
49 of all residential property built prior to 1978 regardless of location  
50 or number of units by ensuring that they receive information about the  
51 presence of lead-based paint in dwellings they purchase.

52 i. This act will require inspection reports that are developed to  
53 comply with this act to be included on the registry of lead inspections  
54 that the department of health is creating pursuant to section 1377 of  
55 the public health law so that future renters and purchasers can learn

1 about lead-based paint in homes they are considering renting or purchas-  
2 ing.

3 j. New York city has already added a requirement, subdivision a-1 of  
4 section 27-2056.4 of the administrative code of the city of New York,  
5 that all rental residential properties be tested one time for lead-based  
6 paint by August 2025. This act will not require re-testing of these  
7 residences when rental properties are sold; but will ensure equity and  
8 protect purchasers of residential properties across the state (including  
9 New York city) by requiring one-time testing for lead-based paint before  
10 any residential property is sold.

11 § 2. The real property law is amended by adding a new article 16 to  
12 read as follows:

13 ARTICLE 16

14 LEAD-BASED PAINT RIGHT TO KNOW ACT

15 Section 520. Short title.

16 521. Definitions.

17 522. Inspection of residential real property for lead-based  
18 paint prior to transfer of title.

19 523. Duty of agent.

20 524. Liability.

21 § 520. Short title. This article shall be known and may be cited as  
22 the "lead-based paint right to know act".

23 § 521. Definitions. As used in this article, the following terms shall  
24 have the following meanings:

25 1. "Agent" shall mean a person who is licensed as a real estate broker  
26 or a real estate salesperson pursuant to section four hundred forty-a of  
27 this chapter and acting in a fiduciary capacity.

28 2. "Binding contract of sale" shall mean a real estate purchase  
29 contract or offer that would, upon signing by the seller and subject to  
30 satisfaction of any contingencies, require the buyer to accept a trans-  
31 fer of title.

32 3. "Broker" shall have the same meaning as "real estate broker"  
33 defined by section four hundred forty of this chapter.

34 4. "Buyer" shall mean any entity that enters into a real estate  
35 purchase contract, including but not limited to individuals, partner-  
36 ships, corporations, trusts, government agencies, housing agencies,  
37 Indian tribes, and nonprofit organizations.

38 5. "Lead-based paint" shall mean paint or other similar surface coat-  
39 ing material containing .50 milligrams of lead per square centimeter or  
40 greater, as determined by laboratory analysis of paint samples with all  
41 layers of paint present, or by an x-ray fluorescence analyzer. If an  
42 x-ray fluorescence analyzer is used, readings shall be corrected for  
43 substrate bias when necessary as specified by the performance character-  
44 istic sheets released by the United States environmental protection  
45 agency and the United States department of housing and urban development  
46 for the specific x-ray fluorescence analyzer used. X-ray fluorescence  
47 readings shall be classified as positive, negative or inconclusive in  
48 accordance with the United States department of housing and urban devel-  
49 opment guidelines for the evaluation and control of lead-based paint  
50 hazards in housing (July 2012) or successor guidelines, and the perform-  
51 ance characteristic sheets released by the United States environmental  
52 protection agency and the United States department of housing and urban  
53 development for the specific x-ray fluorescence analyzer used. X-ray  
54 fluorescence readings that fall within the inconclusive zone, as deter-  
55 mined by the performance characteristic sheets, shall be confirmed by  
56 laboratory analysis of paint chips, the measure of such laboratory anal-

1 ysis shall be definitive. Where a laboratory analysis of paint chips is  
2 performed (including because an x-ray fluorescence reading is inconclu-  
3 sive), the results shall be reported in percent by weight. In such  
4 case, lead-based paint shall mean any paint or other similar surface-  
5 coating material containing more than 0.009 percent (or 90 parts per  
6 million) of metallic lead, based on the non-volatile content of the  
7 paint or other similar surface-coating material. In the event that the  
8 United States environmental protection agency or a successor agency, or  
9 the United States department of housing and urban development or a  
10 successor agency, or the United States consumer product safety commis-  
11 sion or a successor agency, or a department or agency of the state of  
12 New York that has obtained applicable authorization pursuant to 40  
13 C.F.R. part 745 subpart Q or successor regulation, adopts more stringent  
14 definitions of lead-based paint, such more stringent definitions shall  
15 apply for the purposes of this article.

16 6. "Real estate purchase contract" shall mean any of the following:

17 (a) a contract which provides for the purchase and sale or exchange of  
18 residential real property;

19 (b) a lease with an option to purchase residential real property;

20 (c) a lease-with-obligation-to-purchase agreement for residential real  
21 property; or

22 (d) an installment land sale contract for residential real property.

23 7. "Residential real property" shall mean real property improved by a  
24 residential dwelling erected prior to the year nineteen hundred seven-  
25 ty-eight.

26 8. "Residential dwelling" shall mean a single-family dwelling, includ-  
27 ing attached structures such as porches and stoops, or a single-family  
28 dwelling unit within a structure that contains more than one separate  
29 residential dwelling unit, used or occupied, or designed to be used or  
30 occupied, wholly or partly, as the home or residence of one or more  
31 persons whether or not it was or will be occupied.

32 9. "Seller" shall mean any entity that intends to engage in the trans-  
33 fer of title to a buyer of residential real property, in whole or in  
34 part, including but not limited to individuals, partnerships, corpo-  
35 rations, trusts, government agencies, housing agencies, Indian tribes,  
36 mortgage banker, lender, and nonprofit organizations. The term "seller"  
37 also shall mean an entity that transfers shares in a cooperatively owned  
38 project.

39 10. "Test for lead-based paint" shall mean a test for the presence of  
40 lead-based paint that has been conducted through a lead-based paint  
41 inspection as defined in 40 C.F.R. 745.103, 24 C.F.R. 35.86, and the  
42 United States department of housing and urban development guidelines for  
43 the evaluation and control of lead-based paint hazards in housing (July  
44 2012), or successor regulations and guidelines, and a report prepared  
45 indicating the results of such test, including the locations where tests  
46 were performed for lead-based paint and the readings of all such tests.  
47 Such test shall not be valid unless performed by a person accredited  
48 pursuant to: (a) certification to conduct lead hazard risk assessment or  
49 inspections by the United States environmental protection agency pursu-  
50 ant to 40 C.F.R. 745.226(b) or successor regulation; or (b) certif-  
51 ication by a state or tribal program authorized by the United States  
52 environmental protection agency to certify individuals engaged in lead-  
53 based paint activities pursuant to 40 C.F.R. 745.325 or successor regu-  
54 lation or eligible to conduct the inspections required by this article.  
55 For multifamily housing, the test must be conducted in accordance with  
56 the United States department of housing and urban development guidelines

1 for the evaluation and control of lead-based paint hazards in housing  
2 (July 2012), or successor guidelines. Such inspection shall consist of  
3 the use of an x-ray fluorescence analyzer on all types of surfaces in  
4 accordance with the procedures described in chapter 7 of the United  
5 States department of housing and urban development guidelines for the  
6 evaluation and control of lead-based paint hazards in housing (July  
7 2012), or successor regulations, including on chewable surfaces, fric-  
8 tion surfaces, and impact surfaces, to determine whether lead-based  
9 paint is present, and where such paint is located, in such dwelling  
10 unit.

11 11. "Transfer of title" shall mean delivery of a properly executed  
12 instrument conveying title to residential real property and shall  
13 include delivery of a real estate purchase contract that is a lease or  
14 installment land sale contract.

15 § 522. Inspection of residential real property for lead-based paint  
16 prior to transfer of title. 1. (a) Effective August first, two thousand  
17 twenty-four, every seller of residential real property pursuant to a  
18 real estate purchase contract shall deliver to a buyer or buyer's agent  
19 prior to the signing by the buyer of a binding contract of sale a  
20 certificate that such property has been tested for lead-based paint, and  
21 provide the report of such test. The seller shall attach a copy of the  
22 certificate containing the signature of the seller and any report of a  
23 test for lead-based paint to the real estate purchase contract. The  
24 seller shall submit a copy of such certificate and report of such test  
25 and any subsequent reports of such tests to the office authorized under  
26 section three hundred seventy-two of this chapter to be registrar of  
27 title in the county where such real property is located, and such office  
28 shall not accept for filing an instrument of transfer of title unless  
29 accompanied by such certificate where applicable. The seller shall also  
30 file such certificate and report with the registry established by the  
31 department of health pursuant to subdivision one of section thirteen  
32 hundred seventy-seven of the public health law. The registry shall be  
33 publicly accessible online, translated consistent with section two  
34 hundred two-a of the executive law, and easy to navigate and read by  
35 people with an eighth grade education or less. The department of health  
36 shall notify the county department of health in the location of the  
37 property sale about new entries in the registry coming from property  
38 sales.

39 (b) The presentation of a certificate of such test by a prior owner of  
40 such property and evidence of filing such certificate and report with  
41 the department of health in the county where such residential real prop-  
42 erty is located, and with the registry established by the department of  
43 health pursuant to subdivision one of section thirteen hundred seventy-  
44 seven of the public health law, shall be deemed to be in compliance with  
45 the provisions of this subdivision.

46 (c) In the event the seller has not received from a prior owner a  
47 certification and report of such tests as set forth in this subdivision,  
48 the costs of testing for lead-based paint and the preparation of a  
49 certificate and report thereof as provided in this subdivision shall be  
50 deductible by the transferor or grantor, up to the amount of five  
51 hundred dollars, or in a building with more than one dwelling unit up to  
52 four hundred dollars per dwelling unit tested, from the taxes imposed by  
53 sections fourteen hundred two and fourteen hundred two-a of the tax law.  
54 The transferor or grantor shall not be reimbursed for costs in excess of  
55 the total taxes imposed by sections fourteen hundred two and fourteen  
56 hundred two-a of the tax law.

1 2. Any provision in a real estate purchase contract or any other docu-  
2 ment related to the transfer of title in residential real property that  
3 purports to waive any right created under state or federal law for the  
4 buyer to conduct a risk assessment or inspection of the property to  
5 determine the presence of lead-based paint and/or lead-based paint  
6 hazards, or any oral agreement that purports to waive such right, is  
7 null and void as against public policy, notwithstanding that such waiv-  
8 ers might otherwise be permitted by federal law.

9 3. A certificate that such property has been tested for lead-based  
10 paint shall not be required in connection with any of the following  
11 transfers of residential real property:

12 (a) A transfer to a beneficiary of a deed of trust;

13 (b) A transfer by a fiduciary in the course of the administration of a  
14 decedent's estate, a guardianship, a conservatorship, or a trust;

15 (c) A transfer from one co-owner to one or more other co-owners;

16 (d) A transfer made to the transferor's spouse or to one or more  
17 persons in the lineal consanguinity of one or more of the transferors;

18 (e) A transfer between spouses or former spouses as a result of a  
19 decree of divorce, dissolution of marriage, annulment, or legal sepa-  
20 ration or as a result of property settlement, agreement incidental to a  
21 decree of divorce, dissolution of marriage, annulment or legal sepa-  
22 ration;

23 (f) A transfer to or from the state, a political subdivision of the  
24 state, or another governmental entity;

25 (g) A transfer by a sheriff;

26 (h) A transfer pursuant to a partition action; or

27 (i) A transfer of an unoccupied dwelling unit or residential property  
28 that is to be demolished, provided the dwelling unit or property will  
29 remain unoccupied until demolition and lead-safe work practices enumer-  
30 ated in 40 C.F.R. 745 and successor regulations, or more protective  
31 state law are followed during the demolition.

32 4. Nothing contained in this article is intended to prevent the  
33 parties to a contract of sale from entering into agreements of any kind  
34 or nature with respect to the physical condition of the property to be  
35 sold, including, but not limited to, agreements for the sale of real  
36 property "as is".

37 § 523. Duty of agent. An agent representing a seller of residential  
38 real property as a listing broker, or, if the seller is not represented  
39 by an agent, the agent representing the buyer of residential real prop-  
40 erty and dealing with a prospective seller, shall have the duty to time-  
41 ly (in any event, before the buyer signs a binding contract of sale)  
42 inform each seller of the seller's obligations under this article. An  
43 agent representing a buyer of residential real property, or, if the  
44 buyer is not represented by an agent, the agent representing a seller of  
45 residential real property and dealing with a prospective buyer, shall  
46 have the duty to timely (in any event, before the buyer signs a binding  
47 contract of sale) inform such buyer of the buyer's rights and obli-  
48 gations under this article. If an agent performs the duties and obli-  
49 gations imposed upon such agent pursuant to this section, the agent  
50 shall have no further duties under this article and shall not be liable  
51 to any party for a violation of this article. The department of state  
52 may, pursuant to section four hundred forty-one-c of this chapter,  
53 revoke or suspend the license of an agent who violates this article.

54 § 524. Liability. Nothing contained in this article shall be construed  
55 as limiting any existing legal cause of action or remedy at law, in  
56 statute or in equity.

1 § 3. The real property law is amended by adding a new section 235-aa  
2 to read as follows:

3 § 235-aa. Disclosure of lead-based paint and lead-based paint hazards.

4 1. Prior to executing a residential lease or rental agreement with a  
5 tenant, the owner of real property shall provide the tenant a copy of  
6 all reports of a test for lead-based paint issued or prepared pursuant  
7 to section five hundred twenty-two of this chapter, and any other  
8 report, within the possession or control of the owner, pertaining to  
9 lead-based paint or lead-based paint hazards within the meaning of  
10 section 4852d of title 42 of the United States Code and the regulations  
11 thereunder. Owners who deliver a disclosure form with all required docu-  
12 ments under the provisions of section 4852d of title 42 of the United  
13 States Code and the regulations thereunder shall be deemed to have  
14 complied with the requirements of this subdivision.

15 2. Any agreement by a lessee or tenant of premises for dwelling  
16 purposes waiving or modifying such lessee or tenant's rights as set  
17 forth in this section shall be void as contrary to public policy.

18 3. An owner who violates this section shall be liable for a civil  
19 penalty not to exceed ten thousand dollars, and in addition, a penalty  
20 to the tenant not to exceed the equivalent of the amount of rental  
21 payments for three months plus any attorney's fees. The powers and  
22 remedies set forth in this section shall be in addition to all other  
23 existing legal cause of action or remedy at law, in statute or in equi-  
24 ty.

25 § 4. Subdivision 2 of section 462 of the real property law, as amended  
26 by chapter 484 of the laws of 2023, is amended to read as follows:

27 2. The following shall be the disclosure form:

28 PROPERTY CONDITION DISCLOSURE STATEMENT

29 NAME OF SELLER OR SELLERS:

30 PROPERTY ADDRESS:

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

35 PURPOSE OF STATEMENT: THIS IS A STATEMENT OF CERTAIN CONDITIONS AND  
36 INFORMATION CONCERNING THE PROPERTY KNOWN TO THE SELLER. THIS DISCLOSURE  
37 STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT  
38 REPRESENTING THE SELLER IN THIS TRANSACTION. IT IS NOT A SUBSTITUTE FOR  
39 ANY INSPECTIONS OR TESTS AND THE BUYER IS ENCOURAGED TO OBTAIN [~~HIS OR~~  
40 ~~HER~~] **THEIR** OWN INDEPENDENT PROFESSIONAL INSPECTIONS AND ENVIRONMENTAL  
41 TESTS AND ALSO IS ENCOURAGED TO CHECK PUBLIC RECORDS PERTAINING TO THE  
42 PROPERTY.

43 A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM  
44 MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE  
45 TRANSFER OF TITLE.

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

53 INSTRUCTIONS TO THE SELLER:

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

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

3 (c) COMPLETE THIS FORM YOURSELF.

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

6 SELLER'S STATEMENT: THE SELLER MAKES THE FOLLOWING REPRESENTATIONS TO  
7 THE BUYER BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AT THE TIME OF SIGN-  
8 ING THIS DOCUMENT. THE SELLER AUTHORIZES [~~HIS OR HER~~] THEIR AGENT, IF  
9 ANY, TO PROVIDE A COPY OF THIS STATEMENT TO A PROSPECTIVE BUYER OF THE  
10 RESIDENTIAL REAL PROPERTY. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE  
11 SELLER AND ARE NOT THE REPRESENTATIONS OF THE SELLER'S AGENT.

12 GENERAL INFORMATION

13 1. HOW LONG HAVE YOU OWNED THE PROPERTY?

14 2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?

15 3. WHAT IS THE AGE OF THE STRUCTURE OR STRUCTURES? NOTE TO BUYER--IF  
16 THE STRUCTURE WAS BUILT BEFORE 1978 YOU ARE ENCOURAGED TO INVESTI-  
17 GATE FOR THE PRESENCE OF LEAD BASED PAINT HAZARDS. IN ADDITION, NEW  
18 YORK REAL PROPERTY LAW REQUIRES THE SELLER TO PRODUCE THE RESULTS  
19 OF A TEST OF ALL THE PAINTED SURFACES FOR LEAD, OR TO CONDUCT SUCH  
20 TEST IF NOT PREVIOUSLY PERFORMED.

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

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

27 6. HAS ANYONE DENIED YOU ACCESS TO THE PROPERTY OR MADE A FORMAL LEGAL  
28 CLAIM CHALLENGING YOUR TITLE TO THE PROPERTY? YES NO UNKN NA (IF  
29 YES, EXPLAIN BELOW)

30 7. ARE THERE ANY FEATURES OF THE PROPERTY SHARED IN COMMON WITH  
31 ADJOINING LAND OWNERS OR A HOMEOWNERS ASSOCIATION, SUCH AS WALLS,  
32 FENCES OR DRIVEWAYS? YES NO UNKN NA (IF YES DESCRIBE BELOW)

33 8. ARE THERE ANY ELECTRIC OR GAS UTILITY SURCHARGES FOR LINE EXTEN-  
34 SIONS, SPECIAL ASSESSMENTS OR HOMEOWNER OR OTHER ASSOCIATION FEES  
35 THAT APPLY TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

36 9. ARE THERE CERTIFICATES OF OCCUPANCY RELATED TO THE PROPERTY? YES  
37 NO UNKN NA (IF NO, EXPLAIN BELOW)

38 ENVIRONMENTAL

39 NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARD-  
40 ING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW  
41 TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY  
42 OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY  
43 INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING  
44 FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS OR  
45 OTHER MATERIAL THAT COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL  
46 HEALTH OR THE ENVIRONMENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED  
47 OR STORED. THESE INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTI-  
48 CIDES AND INSECTICIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER  
49 AND WOOD PRESERVATIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS  
50 ASPHALT AND ROOFING MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS,  
51 BATTERIES, CLEANING SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD  
52 CLEANERS, POOL CHEMICALS, PRODUCTS CONTAINING MERCURY AND LEAD AND  
53 INDOOR MOLD.

1 NOTE TO BUYER - IF CONTAMINATION OF THIS PROPERTY FROM PETROLEUM  
2 PRODUCTS AND/OR HAZARDOUS OR TOXIC SUBSTANCES IS A CONCERN TO YOU, YOU  
3 ARE URGED TO CONSIDER SOIL AND GROUNDWATER TESTING OF THIS PROPERTY. IF  
4 LEAD IN DRINKING WATER IS A CONCERN TO YOU, YOU ARE URGED TO HAVE THE  
5 PLUMBING EXAMINED, INCLUDING THE SERVICE LINE.

- 6 10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A FEDERAL EMERGENCY  
7 MANAGEMENT AGENCY (FEMA) DESIGNATED FLOODPLAIN? YES NO UNKN NA  
8 (IF YES, EXPLAIN BELOW)
- 9 11. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN THE  
10 SPECIAL FLOOD HAZARD AREA ("SFHA"; "100-YEAR FLOODPLAIN") ACCORD-  
11 ING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA'S) CURRENT  
12 FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO UNKN NA (IF YES,  
13 EXPLAIN BELOW)
- 14 12. IS ANY OR ALL OF THE PROPERTY LOCATED WHOLLY OR PARTIALLY IN A  
15 MODERATE RISK FLOOD HAZARD AREA ("500-YEAR FLOODPLAIN") ACCORDING  
16 TO FEMA'S CURRENT FLOOD INSURANCE RATE MAPS FOR YOUR AREA? YES NO  
17 UNKN NA (IF YES, EXPLAIN BELOW)
- 18 13. IS THE PROPERTY SUBJECT TO ANY REQUIREMENT UNDER FEDERAL LAW TO  
19 OBTAIN AND MAINTAIN FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN  
20 NA (IF YES, EXPLAIN BELOW)
- 21 HOMES IN THE SPECIAL FLOOD HAZARD AREA, ALSO KNOWN AS HIGH RISK  
22 FLOOD ZONES, ON FEMA'S FLOOD INSURANCE RATE MAPS WITH MORTGAGES  
23 FROM FEDERALLY REGULATED OR INSURED LENDERS ARE REQUIRED TO OBTAIN  
24 AND MAINTAIN FLOOD INSURANCE. EVEN WHEN NOT REQUIRED, FEMA ENCOUR-  
25 AGES HOMEOWNERS IN HIGH RISK, MODERATE RISK, AND LOW RISK FLOOD  
26 ZONES TO PURCHASE FLOOD INSURANCE THAT COVERS THE STRUCTURE(S) AND  
27 THE PERSONAL PROPERTY WITHIN THE STRUCTURE(S). ALSO NOTE THAT  
28 HOMES IN COASTAL AREAS MAY BE SUBJECT TO INCREASED RISK OF FLOOD-  
29 ING OVER TIME DUE TO PROJECTED SEA LEVEL RISE AND INCREASED  
30 EXTREME STORMS CAUSED BY CLIMATE CHANGE WHICH MAY NOT BE REFLECTED  
31 IN CURRENT FLOOD INSURANCE RATE MAPS.
- 32 14. HAVE YOU EVER RECEIVED ASSISTANCE, OR ARE YOU AWARE OF ANY PREVI-  
33 OUS OWNERS RECEIVING ASSISTANCE, FROM THE FEDERAL EMERGENCY  
34 MANAGEMENT AGENCY (FEMA), THE U.S. SMALL BUSINESS ADMINISTRATION  
35 (SBA), OR ANY OTHER FEDERAL DISASTER FLOOD ASSISTANCE FOR FLOOD  
36 DAMAGE TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW) FOR  
37 PROPERTIES THAT HAVE RECEIVED FEDERAL DISASTER ASSISTANCE, THE  
38 REQUIREMENT TO OBTAIN FLOOD INSURANCE PASSES DOWN TO ALL FUTURE  
39 OWNERS. FAILURE TO OBTAIN AND MAINTAIN FLOOD INSURANCE CAN RESULT  
40 IN AN INDIVIDUAL BEING INELIGIBLE FOR FUTURE ASSISTANCE.
- 41 15. IS THERE FLOOD INSURANCE ON THE PROPERTY? YES NO UNKN NA (IF YES,  
42 ATTACH A COPY OF THE POLICY)
- 43 A STANDARD HOMEOWNER'S INSURANCE POLICY TYPICALLY DOES NOT COVER  
44 FLOOD DAMAGE. YOU ARE ENCOURAGED TO EXAMINE YOUR POLICY TO DETER-  
45 MINE WHETHER YOU ARE COVERED.
- 46 16. IS THERE A FEMA ELEVATION CERTIFICATE AVAILABLE FOR THE PROPERTY?  
47 YES NO UNKN NA (IF YES, ATTACH A COPY OF THE CERTIFICATE)
- 48 AN ELEVATION CERTIFICATE IS A FEMA FORM, COMPLETED BY A LICENSED  
49 SURVEYOR OR ENGINEER. THE FORM PROVIDES CRITICAL INFORMATION ABOUT  
50 THE FLOOD RISK OF THE PROPERTY AND IS USED BY FLOOD INSURANCE  
51 PROVIDERS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) TO  
52 HELP DETERMINE THE APPROPRIATE FLOOD INSURANCE RATING FOR THE  
53 PROPERTY. A BUYER MAY BE ABLE TO USE THE ELEVATION CERTIFICATE  
54 FROM A PREVIOUS OWNER FOR THEIR FLOOD INSURANCE POLICY.
- 55 17. HAVE YOU EVER FILED A CLAIM FOR FLOOD DAMAGE TO THE PROPERTY WITH

- 1 ANY INSURANCE PROVIDER, INCLUDING THE NATIONAL FLOOD INSURANCE  
2 PROGRAM (NFIP)? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 3 18. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND?  
4 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 5 19. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT?  
6 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 7 20. WAS THE PROPERTY EVER THE SITE OF A LANDFILL?  
8 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 9 21. ARE THERE OR HAVE THERE EVER BEEN FUEL STORAGE TANKS ABOVE OR  
10 BELOW THE GROUND ON THE PROPERTY? YES NO UNKN NA IF YES, ARE  
11 THEY CURRENTLY IN USE? YES NO UNKN NA LOCATION(S) ARE THEY LEAKING  
12 OR HAVE THEY EVER LEAKED? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 13 22. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE  
14 LOCATION OR LOCATIONS BELOW)
- 15 23. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION  
16 OR LOCATIONS BELOW)
- 17 24. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY  
18 OF THE REPORT)
- 19 25. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL OR  
20 ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR  
21 TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE  
22 PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO  
23 UNKN NA (IF YES, DESCRIBE BELOW)
- 24 26. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL, MOTOR  
25 OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETROLEUM  
26 PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE? YES NO  
27 UNKN NA (IF YES, ATTACH REPORT(S))
- 28 27. HAS THE PROPERTY BEEN TESTED FOR INDOOR MOLD? YES NO UNKN (IF YES,  
29 ATTACH A COPY OF THE REPORT)

## 30 STRUCTURAL

- 31 28. IS THERE ANY ROT OR WATER DAMAGE TO THE STRUCTURE OR STRUCTURES?  
32 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 33 29. IS THERE ANY FIRE OR SMOKE DAMAGE TO THE STRUCTURE OR STRUCTURES?  
34 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 35 30. IS THERE ANY TERMITE, INSECT, RODENT OR PEST INFESTATION OR  
36 DAMAGE? YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 37 31. HAS THE PROPERTY BEEN TESTED FOR TERMITE, INSECT, RODENT OR PEST  
38 INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, PLEASE ATTACH  
39 REPORT(S))
- 40 32. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT, OTHER.)?  
41 ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE A TRANS-  
42 FERABLE WARRANTY ON THE ROOF IN EFFECT NOW? YES NO UNKN NA (IF  
43 YES, EXPLAIN BELOW)
- 44 33. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING  
45 STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR  
46 PARTITIONS? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

## 47 MECHANICAL SYSTEMS &amp; SERVICES

- 48 34. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL, PRIVATE,  
49 MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO UNKN NA
- 50 35. HAS THE WATER QUALITY AND/OR FLOW RATE BEEN TESTED? YES NO UNKN NA  
51 (IF YES, DESCRIBE BELOW)
- 52 36. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY - PUBLIC  
53 SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR CESSPOOL,  
54 AGE? \_\_\_\_\_ DATE LAST PUMPED? \_\_\_\_\_ FREQUENCY OF PUMPING?

- 1 \_\_\_\_\_ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF YES,
- 2 EXPLAIN BELOW)
- 3 37. WHO IS YOUR ELECTRIC SERVICE PROVIDER? \_\_\_\_\_ WHAT IS THE AMPER-
- 4 AGE? \_\_\_\_\_ DOES IT HAVE CIRCUIT BREAKERS OR FUSES? \_\_\_\_\_
- 5 PRIVATE OR PUBLIC POLES? \_\_\_\_\_ ANY KNOWN MATERIAL DEFECTS? YES
- 6 NO UNKN NA (IF YES, EXPLAIN BELOW)
- 7 38. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT RESULTED
- 8 IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO UNKN NA
- 9 (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)
- 10 39. HAS THE STRUCTURE(S) EXPERIENCED ANY WATER PENETRATION OR DAMAGE
- 11 DUE TO SEEPAGE OR A NATURAL FLOOD EVENT, SUCH AS FROM HEAVY RAIN-
- 12 FALL, COASTAL STORM SURGE, TIDAL INUNDATION OR RIVER OVERFLOW?
- 13 YES NO UNKN NA (IF YES, EXPLAIN BELOW)
- 14 ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING (IF YES,
- 15 EXPLAIN BELOW. USE ADDITIONAL SHEETS IF NECESSARY.):
- 16 40. PLUMBING SYSTEM? YES NO UNKN NA
- 17 41. SECURITY SYSTEM? YES NO UNKN NA
- 18 42. CARBON MONOXIDE DETECTOR? YES NO UNKN NA
- 19 43. SMOKE DETECTOR? YES NO UNKN NA
- 20 44. FIRE SPRINKLER SYSTEM? YES NO UNKN NA
- 21 45. SUMP PUMP? YES NO UNKN NA
- 22 46. FOUNDATION/SLAB? YES NO UNKN NA
- 23 47. INTERIOR WALLS/CEILINGS? YES NO UNKN NA
- 24 48. EXTERIOR WALLS OR SIDING? YES NO UNKN NA
- 25 49. FLOORS? YES NO UNKN NA
- 26 50. CHIMNEY/FIREPLACE OR STOVE? YES NO UNKN NA
- 27 51. PATIO/DECK? YES NO UNKN NA
- 28 52. DRIVEWAY? YES NO UNKN NA
- 29 53. AIR CONDITIONER? YES NO UNKN NA
- 30 54. HEATING SYSTEM? YES NO UNKN NA
- 31 55. HOT WATER HEATER? YES NO UNKN NA

32 56. THE PROPERTY IS LOCATED IN THE FOLLOWING SCHOOL DISTRICT UNKN  
 33 NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE  
 34 PROPERTY (E.G. TAX RECORDS AND WETLAND AND FEMA'S CURRENT FLOOD  
 35 INSURANCE RATE MAPS AND ELEVATION CERTIFICATES)

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

39 \_\_\_\_\_  
 40 \_\_\_\_\_  
 41 \_\_\_\_\_  
 42 \_\_\_\_\_

43 SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS  
 44 PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE  
 45 SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A  
 46 SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS  
 47 MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED  
 48 PREVIOUSLY, THE SELLER SHALL DELIVER A REVISED PROPERTY CONDITION  
 49 DISCLOSURE STATEMENT TO THE BUYER AS SOON AS PRACTICABLE. IN NO EVENT,  
 50 HOWEVER, SHALL A SELLER BE REQUIRED TO PROVIDE A REVISED PROPERTY CONDI-  
 51 TION DISCLOSURE STATEMENT AFTER THE TRANSFER OF TITLE FROM THE SELLER TO  
 52 THE BUYER OR OCCUPANCY BY THE BUYER, WHICHEVER IS EARLIER.

53 SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
 54 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

55 BUYER'S ACKNOWLEDGMENT: BUYER ACKNOWLEDGES RECEIPT OF A COPY OF THIS  
 56 STATEMENT AND BUYER UNDERSTANDS THAT THIS INFORMATION IS A STATEMENT OF

1 CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE  
2 SELLER. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR SELLER'S AGENT  
3 AND IS NOT A SUBSTITUTE FOR ANY HOME, PEST, RADON OR OTHER INSPECTIONS  
4 OR TESTING OF THE PROPERTY OR INSPECTION OF THE PUBLIC RECORDS.

5 BUYER\_\_\_\_\_ DATE\_\_\_\_\_

6 BUYER\_\_\_\_\_ DATE \_\_\_\_\_

7 § 5. This act shall take effect August 1, 2025. Effective imme-  
8 diately, the addition, amendment, and/or repeal of any rule or regu-  
9 lation necessary for the implementation of this act on its effective  
10 date are authorized to be made and completed on or before such effective  
11 date.