

AMENDED IN ASSEMBLY JULY 2, 2013

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 22, 2013

**SENATE BILL**

**No. 652**

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**Introduced by Senator DeSaulnier**

February 22, 2013

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An act to ~~add Section 1102.3b to amend Section 1102.6~~ of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 652, as amended, DeSaulnier. Real property disclosures: construction defect litigation.

Existing law requires the transferor of residential property to make certain disclosures to a prospective transferee and requires these disclosures to be made on a specified form. ~~Under existing law, the transferor is required to disclose any lawsuits by or against the transferor threatening to or affecting the real property, as specified. Existing law makes any person who willfully or negligently violates or fails to perform any specified duty liable in the amount of actual damages suffered by a transferee.~~

~~Existing law prescribes a process for determining liability in an action seeking the recovery of damages arising out of, or related to, deficiencies in residential construction, design, and related issues and sets forth specified standards in this regard.~~

This bill would ~~require the transferor of any real property~~ *revise the transfer disclosure form* to additionally disclose to a potential transferee ~~all claims for damages relating to deficiencies in residential construction,~~

~~as specified, made by the transferor and the status of those claims specified claims for damages by the seller.~~

*The bill would make its provisions operative on July 1, 2014.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 1102.6 of the Civil Code is amended to*
- 2     *read:*
- 3     1102.6. (a) The disclosures required by this article pertaining
- 4     to the property proposed to be transferred are set forth in, and shall
- 5     be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, STATE OF CALIFORNIA, DESCRIBED AS \_\_\_\_\_

\_\_\_\_\_. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF \_\_\_\_\_, 20\_\_\_\_. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures and other disclosures required by law, including the Natural Hazard Disclosure Report/Statement that may include airport annoyances, earthquake, fire, flood, or special assessment information, have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

- Inspection reports completed pursuant to the contract of sale or receipt for deposit.
- Additional inspection reports or disclosures:

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II

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER:

Seller \_\_\_ is \_\_\_ is not occupying the property.

A. The subject property has the items checked below (read across):\*

- Range
- Dishwasher
- Washer/Dryer Hookups
- Burglar Alarms
- TV Antenna
- Central Heating
- Wall/Window Air Cndtng.
- Septic Tank
- Patio/Decking
- Sauna
- Hot Tub \_\_\_ Locking Safety Cover
- Security Gate(s)
- Garage: \_\_\_ Attached
- Pool/Spa Heater: \_\_\_ Gas
- Water Heater: \_\_\_ Gas
- Water Supply: \_\_\_ City
- Gas Supply: \_\_\_ Utility
- Window Screens
- Oven
- Trash Compactor
- Carbon Monoxide Device(s)
- Satellite Dish
- Sprinklers
- Sump Pump
- Built-in Barbecue
- Pool \_\_\_ Child Resistant Barrier
- Automatic Garage Door Opener(s)
- Not Attached
- Solar
- Well
- Bottled
- Window Security Bars \_\_\_ Quick-Release Mechanism on Bedroom Windows
- Microwave
- Garbage Disposal
- Rain Gutters
- Fire Alarm
- Intercom
- Evaporator Cooler(s)
- Public Sewer System
- Water Softener
- Gazebo
- Spa \_\_\_ Locking Safety Cover
- Number Remote Controls
- Carport
- Electric
- Private Utility or Other \_\_\_\_\_
- Water-conserving plumbing fixtures

Exhaust Fan(s) in \_\_\_\_\_ 220 Volt Wiring in \_\_\_\_\_ Fireplace(s) in \_\_\_\_\_  
 Gas Starter \_\_\_\_\_ Roof(s): Type: \_\_\_\_\_ Age: \_\_\_\_\_ (approx.)  
 Other: \_\_\_\_\_

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? \_\_\_ Yes \_\_\_ No. If yes, then describe.  
 (Attach additional sheets if necessary): \_\_\_\_\_

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following?  
 \_\_\_ Yes \_\_\_ No. If yes, check appropriate space(s) below.

- Interior Walls
- Ceilings
- Floors
- Exterior Walls
- Insulation
- Roof(s)
- Windows
- Doors
- Foundation
- Slab(s)
- Driveways
- Sidewalks
- Walls/Fences
- Electrical Systems
- Plumbing/Sewers/Septics
- Other \_\_\_\_\_

Structural Components (Describe: \_\_\_\_\_)  
 If any of the above is checked, explain. (Attach additional sheets if necessary): \_\_\_\_\_

\* Installation of a listed appliance, device, or amenity is not a precondition of sale or transfer of the dwelling. The carbon monoxide device, garage door opener, or child-resistant pool barrier may not be in compliance with the safety standards relating to, respectively, carbon monoxide device standards of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12 of, automatic reversing device standards of Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of, or the pool safety standards of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104 of, the Health and Safety Code. Window security bars may not have quick-release mechanisms in compliance with the 1995 edition of the California Building Standards Code. Section 1101.4 of the Civil Code requires all single-family residences built on or before January 1, 1994, to be equipped with water-conserving plumbing fixtures after January 1, 2017. Additionally, on and after January 1, 2014, a single-family residence built on or before January 1, 1994, that is altered or improved is required to be equipped with water-conserving plumbing fixtures as a condition of final approval. Fixtures in this dwelling may not comply with Section 1101.4 of the Civil Code.

- C. Are you (Seller) aware of any of the following:
1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, mold, fuel or chemical storage tanks, and contaminated soil or water on the subject property ..... Yes No
  2. Features of the property shared in common with adjoining landowners, such as walls, fences, and drive-ways, whose use or responsibility for maintenance may have an effect on the subject property ..... Yes No
  3. Any encroachments, easements or similar matters that may affect your interest in the subject property ..... Yes No
  4. Room additions, structural modifications, or other alterations or repairs made without necessary permits ..... Yes No
  5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes..... Yes No
  6. Fill (compacted or otherwise) on the property or any portion thereof ..... Yes No
  7. Any settling from any cause, or slippage, sliding, or other soil problems ..... Yes No
  8. Flooding, drainage or grading problems ..... Yes No
  9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides ..... Yes No
  10. Any zoning violations, nonconforming uses, violations of “setback” requirements ..... Yes No
  11. Neighborhood noise problems or other nuisances ..... Yes No
  12. CC&Rs or other deed restrictions or obligations ..... Yes No
  13. Homeowners’ Association which has any authority over the subject property ..... Yes No
  14. Any “common area” (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)..... Yes No
  15. Any notices of abatement or citations against the property..... Yes No
  16. Any lawsuits by or against the Seller, *or claims for damages by the seller pursuant to Section 910*, threatening to or affecting this real property, including any lawsuits, *or claims for damages by the seller pursuant to Section 910*, alleging a defect or deficiency in this real property or “common areas” (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)..... Yes No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- D. 1. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 13113.8 of the Health and Safety Code by having operable smoke detectors(s) which are approved, listed, and installed in accordance with the State Fire Marshal's regulations and applicable local standards.
- 2. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 19211 of the Health and Safety Code by having the water heater tank(s) braced, anchored, or strapped in place in accordance with applicable law.

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller \_\_\_\_\_ Date \_\_\_\_\_  
 Seller \_\_\_\_\_ Date \_\_\_\_\_

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

Agent notes no items for disclosure.

Agent notes the following items:

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

Agent (Broker  
 Representing Seller) \_\_\_\_\_ (Please Print) By \_\_\_\_\_ (Associate Licensee  
 or Broker Signature) Date \_\_\_\_\_

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

Agent notes no items for disclosure.

Agent notes the following items:

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

Agent (Broker Obtaining the Offer) \_\_\_\_\_ (Please Print) By \_\_\_\_\_ (Associate Licensee or Broker Signature) Date \_\_\_\_\_

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller \_\_\_\_\_ Date \_\_\_\_\_ Buyer \_\_\_\_\_ Date \_\_\_\_\_  
Seller \_\_\_\_\_ Date \_\_\_\_\_ Buyer \_\_\_\_\_ Date \_\_\_\_\_

Agent (Broker Representing Seller) \_\_\_\_\_ (Please Print) By \_\_\_\_\_ (Associate Licensee or Broker Signature) Date \_\_\_\_\_

Agent (Broker Obtaining the Offer) \_\_\_\_\_ (Please Print) By \_\_\_\_\_ (Associate Licensee or Broker Signature) Date \_\_\_\_\_

SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

1     **(b)** *The amendments to this section by the act adding this*  
2 *subdivision shall become operative on July 1, 2014.*

3     SECTION 1. ~~Section 1102.3b is added to the Civil Code, to~~  
4 ~~read:~~

5     ~~1102.3b. In addition to the disclosures required by Section~~  
6 ~~1102.6, the transferor of any real property subject to this article~~  
7 ~~shall disclose to a potential transferee all claims for damages made~~  
8 ~~by the transferor pursuant to Title 7 (commencing with Section~~  
9 ~~895) of Part 2 of Division 2 and the status of these claims.~~