

Senate Bill No. 652

CHAPTER 431

An act to amend Section 1102.6 of the Civil Code, relating to real property.

[Approved by Governor September 30, 2013. Filed with
Secretary of State September 30, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 652, 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.

This bill would revise the transfer disclosure form to additionally disclose to a potential transferee specified claims for damages by the seller.

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

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

SECTION 1. Section 1102.6 of the Civil Code is amended to read:

1102.6. (a) The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall 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:

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):*

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

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.

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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 threatening to or affecting this real property, claims for damages by the Seller pursuant to Section 910 or 914 threatening to or affecting this real property, claims for breach of warranty pursuant to Section 900 threatening to or affecting this real property, or claims for breach of an enhanced protection agreement pursuant to Section 903 threatening to or affecting this real property, including any lawsuits or claims for damages pursuant to Section 910 or 914 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) _____ By _____ Date _____
(Please Print) (Associate Licensee or Broker Signature)

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.

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

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