



TERRY E. BRANSTAD, GOVERNOR

RE: Seller Property Condition Disclosure

Effective July 1, 1994, Iowa law requires **SELLERS** of residential real estate property to deliver to the **BUYER** a written disclosure statement to reveal the condition of various important aspects of the property characteristics and structure(s). This disclosure is required regardless of whether or not the transaction is done with the assistance of a real estate **LICENSEE**, **IF** (1) the property consists of at least one but not more than four dwelling units, and **UNLESS** (2) the type of property transfer is not specifically exempted from the requirement by the law. **NOTE:** Exemptions are listed on the back of this information.

Iowa real estate **LICENSEES** and the **PUBLIC** should be aware of Iowa Code section 558A.2 which requires that the disclosure statement **MUST** be delivered to the **BUYER** either (1) prior to the **SELLER** accepting a written offer from the **BUYER**, or (2) prior to the **BUYER** accepting a written offer from the **SELLER** for the sale, exchange, or lease with option to buy real estate. **SPECIAL NOTE:** If the disclosure statement is **NOT** delivered prior to the acceptance of the offer as required, the **BUYER** may withdraw the offer or cancel the contract, **WITH** or **WITHOUT** reason, **WITHOUT** liability, if done (1) within three days following personal delivery of the statement or (2) within five days following delivery by mail.

There is **NOT** a required form to be used for the disclosure. To assist the public and others, the Iowa Real Estate Commission has prepared the enclosed sample language for the Residential Property Condition Disclosure Statement which contains the minimum items that **MUST** be included in the disclosure. You may use the sample language as it is, or you may use the statement language of your choice.

While the Commission is responsible for determining the minimum important characteristics required to be included in the disclosure, it does **NOT** have the authority for enforcing this law. Violations of Iowa Code sections 558A.1 - 558A.7 are handled through the appropriate court or by other legal remedies. **If you need advice and guidance to determine what legal or civil options may be available to you, you will have to consult your privately retained attorney.**

QUESTIONS and PROBLEMS regarding the Iowa Residential Property Disclosure Law and the requirements should be directed to your privately retained attorney. The Commission and staff are prohibited by Iowa law from providing legal advice.

IOWA RESIDENTIAL PROPERTY DISCLOSURE

Iowa Code section 558A.1(4) Definitions. The disclosure is only required on the transfer of residential property, and only if the property includes at least one but not more than four dwelling units. The following transfers are specifically excluded from the disclosure requirements of Iowa law:

- 1. Transfers pursuant to court order including, but not limited to transfers under chapter 633, the execution of judgment, foreclosure of real estate mortgage pursuant to chapter 654, transfer by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.**
- 2. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired the real property at a sale conducted pursuant to a foreclosure sale, chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or a deed in lieu of foreclosure under section 654.19.**
- 3. Transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.**
- 4. Transfer between joint tenants or tenants in common.**
- 5. Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of the person making the transfer.**
- 6. Transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement which is incidental to the decree, including a decree ordered pursuant to chapter 598.**
- 7. A transfer to or from the state, a political subdivision of the state, another state, or the United States.**
- 8. A transfer by quitclaim deed.**

**IOWA REAL ESTATE COMMISSION
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**ADMINISTRATIVE RULES
PROPERTY CONDITION DISCLOSURE**

193E--1.39(543B) Property condition disclosure requirement. The requirements of this rule shall apply to transfers of real estate subject to Iowa Code 558A. For purposes of this rule "transfer" means the transfer or conveyance of real estate by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, including rental or lease agreements which contain any option to purchase, if the property includes at least one but no more than four dwelling units unless the transfer is exempted by Iowa Code section 558A.1(4).

1.39(1) Additional disclosure. Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise required by law or contract.

1.39(2) Licensee responsibilities to seller. At the time a licensee obtains a listing, the listing licensee shall obtain a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller shall deliver the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the sellers making a written offer to sell or the sellers accepting a written offer to buy.

b. The licensee representing a seller shall attempt to obtain the buyer's signature and date of signature on the statement and shall provide the seller and the buyer with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer's signature, the licensee shall obtain other documentation establishing delivery of the disclosure and maintain the written documentation in the transaction file.

c. If the transaction closes, the listing broker shall maintain the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement shall be delivered to the buyer(s) by either personal delivery, or by certified or registered mail. If there is more than one buyer, any one buyer may accept delivery of the executed statement.

1.39(3) Licensee responsibilities to buyer. A licensee representing a buyer in a transfer shall notify the buyer of the seller's obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when required, the licensee shall notify the buyer of the right to revoke or withdraw the offer.

b. If a buyer elects to revoke or withdraw the offer, the licensee shall obtain a written revocation or withdrawal from the buyer and shall deliver the revocation or withdrawal to the seller within three days following personal delivery or five days following delivery of the disclosure by mail to the buyer.

c. Following revocation or withdrawal, any earnest money deposit shall be disbursed pursuant to 193E-1.27(7) last paragraph.

URL: <http://www.state.ia.us/government/com/prof/pld.htm>

1.39(4) Inclusion of written reports. A written report may be included in a disclosure statement which contains a report or opinion prepared by a person qualified to render the report or opinion. A report may be prepared by, but not limited to, the following persons provided that the content of the report or opinion is within the specified area of expertise of the provider: a land surveyor licensed pursuant to Iowa Code Chapter 542B; a geologist; a structural pest control operator licensed pursuant to Iowa Code section 206.6; or a qualified building contractor.

- a. The seller must identify the required disclosure items which are to be satisfied by the report.
- b. If the report is prepared for the specific purpose of satisfying the disclosure requirement, the preparer of the report shall specifically identify the items of the disclosure which the report is intended to satisfy.
- c. A licensee representing a seller shall provide the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

1.39(5) Amended disclosure requirements. A licensee's obligations with respect to any amended disclosure statement are the same as the licensee's obligations with respect to the original disclosure. A disclosure statement must be amended if information disclosed is or becomes inaccurate or misleading, or is supplemented unless one of the following exceptions applies:

- a. The information disclosed in conformance with Iowa Code chapter 558A is subsequently rendered inaccurate as a result of an act, occurrence, or agreement subsequent to the delivery of the disclosure statement.
- b. The information is based on information of a public agency, including the state, a political subdivision of the state, or the United States.

1.39(6) Minimum disclosure statement contents for all transfers. All property disclosure statements, whether or not a licensee assists in the transaction, are required to disclose at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the Commission recommends use of the following sample language:

**RESIDENTIAL PROPERTY SELLER
DISCLOSURE STATEMENT**

Property Address:

PURPOSE:

Use this statement to disclose information as required by Iowa Code chapter 558A. This law requires certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) must complete this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate it is not applicable (**N/A**);
4. Please provide information in good faith and make a reasonable effort to ascertain the required information. If the required information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** must be identified as **approximations (AP)**.
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

- | | | | | |
|--|-----|-----|----|-----|
| 1. Basement/Foundation: Any known water or other problems? | Yes | [] | No | [] |
| 2. Roof: Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| 3. Well and Pump: Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| Any known water tests? | Yes | [] | No | [] |
| If yes, date of last report: _____/_____/_____ | | | | |
| and results: _____ | | | | |
| 4. Septic Tanks/Drain Fields: Any known problems? | Yes | [] | No | [] |
| Location of tank: _____ | | | | |
| Date tank last cleaned: _____/_____/_____ | | | | |
| 5. Sewer System: Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| 6. Heating System(s): Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| 7. Central Cooling System(s): Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| 8. Plumbing System(s): Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |
| 9. Electrical System(s): Any known problems? | Yes | [] | No | [] |
| Any known repairs? | Yes | [] | No | [] |
| If yes, date of repairs/replacement: _____/_____/_____ | | | | |

- 10. Pest Infestation (e.g., termites, carpenter ants):
 Any known problems? Yes [] No []
 If yes, date(s) of treatment: ____/____/____
 Any known structural damage? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
- 11. Asbestos: Any known to be present in the structure? Yes [] No []
 If yes, explain:
- 12. Radon: Any known tests for the presence of radon gas? Yes [] No []
 If yes, date of last report: ____/____/____
 and results:
- 13. Lead-Based Paint: Any known to be present in the structure? Yes [] No []
- 14. Flood Plain: Do you know if the property is located in a flood plain? Yes [] No []
 If yes, what is the flood plan designation:
- 15. Zoning: Do you know the zoning classification of the property? Yes [] No []
 If yes, what is the zoning classification:
- 16. Shared or Co-Owned Features: Any features of the property known to be shared
 in common with adjoining landowners, such as walls, fences, roads, and driveways
 whose use or maintenance responsibility may have an effect on the property? Yes [] No []

 Any known "common areas" such as pools, tennis courts, walkways, or other areas
 co-owned with others, or a Homeowner's Association which has any authority over
 the property? Yes [] No []
- 17. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [] No []
- 18. Structural Damage: Any known structural damage? Yes [] No []
- 19. Is the property located in a real estate improvement district? Yes [] No []
 If yes, indicate the amount of any special assessment against the property: \$_____

You **MUST** explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary:

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since __/__/__. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller _____
Date __/__/__

Seller _____
Date __/__/__

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection the buyer(s) may wish to obtain.

Buyer _____
Date __/__/__

Buyer _____
Date __/__/__