

New Home Chart

Member Legal Services

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January 5, 2021 (revised)

This disclosure chart is intended to assist REALTORS® who sell new residential real property of one-to-four units including condominiums, condominium conversions, and other common interest developments as well as standard subdivisions whether or not they are subject to the Subdivided Lands Law.

Search this table:

Disclosure	New SFH With Public Report or B&P§ 11010.4 Exemption ¹	New SFH Without Public Report or B&P§ 11010.4 Exemption ¹	New Condo	New Condo Conversion	New Resid. 2 - 4 Units	Law Citation
Advisability of Title Insurance (When No Insurance Issued)	Yes*	Yes*	Yes*	Yes*	Yes*	Cal. Civ. Code § 1057.6. *Typically handled by escrow agent
Agency Disclosure (Education Form) and Agency Confirmation (Who Represents Each Party)	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption ¹ and not occupied, then No	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code § 2079.6.
Area of Potential Flooding²	Yes	Yes	Yes	Yes	Yes	Cal. Gov't. Code §§ 8589.4, 8589.5; Cal. Civ. Code §§ 1103 <i>et seq.</i>

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Broker's Statutory Duty to Inspect Property	No	Yes	No if public report or B&P § 11010.4 exemption ¹) otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption ¹ and not occupied, then No	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 2079, 2079.6.
Carbon Monoxide Detector Disclosure	No*	No*	No*	No*	No*	*If TDS is required, topic is on TDS—no separate disclosure required by law
Carbon Monoxide Detector Compliance	Yes	Yes	Yes	Yes	Yes	2010 Cal. Resi. & Bldg. Codes §§ R315, 420 <i>et seq.</i>
Commercial Property Owner's Guide to Earthquake Safety (Booklet)	No	No	No	No	No	Cal. Bus. & Prof. Code §10147; Cal. Gov't Code §§ 8875.6, 8875.9, 8893.2, 8893.3; Cal. Civ. Code § 2079.9.
Common Interest Development Documents I: CC&Rs, Articles of Incorp., Bylaws, Rules & Policies, Current Financial Information (Operating Budget), Assessments, Assoc. Insurance, Civil Code Section 1133 Notice (if applic.), Enforceable Policies/Fine Structure	Yes (if in a planned development)	Yes (if in a planned development)	Yes	Yes	Yes (if in a planned development)	Cal. Bus. & Prof. Code § 11018.6; Cal. Civ. Code §§ 4525, 4528, 4530 and 4202. Forms HOA-IR, HOA-RS and HOA-RN may be used.

Disclosure	New SFH With Public Report or B&P§ 11010.4 Exemption ¹	New SFH Without Public Report or B&P§ 11010.4 Exemption ¹	New Condo	New Condo Conversion	New Resid. 2 – 4 Units	Law Citation
Common Interest Development Documents II: A copy of the minutes of meetings if requested; estimated fee for required HOA disclosures as distinguished from other fees, fines or assessments on specified form if requested; actual charges on specified form at time documents are delivered; statement describing leasing prohibitions, if any	No if public report otherwise yes (in a planned development)	No if public report otherwise yes (in a planned development)	No if public report otherwise yes	No if public report otherwise yes	No if public report otherwise yes (in a planned development)	Cal. Bus. & Prof. Code § 11018.6; Cal. Civ. Code §§ 4525, 4528, 4530 and 4202. Forms HOA-IR, HOA-RS and HOA-RN may be used.
Common Interest Development Documents III: Written Statement of Substantial Defects/Malfunctions in Major Systems (includes rescission right),	N/A	N/A	N/A	Yes	N/A	Cal. Civ. Code § 1134.
Death (in last 3 years)	Yes*	Yes*	Yes*	Yes*	Yes*	Cal. Civ. Code § 1710.2. *if deemed a "material fact"
Earthquake Fault Zone²	Yes	Yes	Yes	Yes	Yes	Cal. Pub. Res. Code §§ 2621 et seq.; Cal. Civ. Code §§ 1103 et seq.

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Energy Use Report (Commercial)	No	No	No	No	No	Public Resources Code 25402.10. 20 CCR §§ 1680-1684. Disclosures required by this law apply only to nonresidential property.
Existing Subdivision Interest Disclosure Statement: And Supplemental Questionnaire	Yes if public report.	No even if B&P 11010.4 exemption.	Yes if public report.	Yes if public report.	Yes if public report.	CalBRE Regs. 2790.8, 2790.9 and 2792.1; B&P Code 11018.5(d), (e); Civil Code 1134 Only required where property has either been completed or occupied more than 3 years prior a public report application being filed with CalBRE.
FHA/HUD Inspection Notice	Yes	Yes	Yes	Yes	Yes	HUD Mortgagee Letter 92564-CN and HUD Handbook 4000.1 (only FHA loans or HUD-owned property). Not required for properties "Under construction." Lender to provide notice

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FIRPTA (Federal Tax Withholding) and California Tax Withholding	Yes	Yes	Yes	Yes	Yes	Cal. Rev. & Tax Code §§ 18662, 18668; 26 U.S.C. §1445.
Final Inspection Report including defensible space compliance* (if obtained) Effective January 1, 2020	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.3 (delivery of statement). Cal. Civ. Code § 1102.6f(b) *Applies to property located in a Very High Fire Hazard Severity Zone. (C.A.R. form Home Hardening Disclosure and Advisory (HHDA))
Fire Home Hardening* Effective January 1, 2021 and July 1, 2025	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.3 (delivery of statement). Cal. Civ. Code § 1102.6f *Applies to property built before 2010 located in a High or Very High Fire Hazard Severity Zone. (C.A.R. form Home Hardening Disclosure and Advisory (HHDA))

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Fire Defensible Space Compliance* Effective July 1, 2021	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.3 (delivery of statement). Cal. Civ. Code § 1102.19 *Applies to property located in a High or very high fire severity zone.
Flood Disaster Insurance Requirements⁴	Yes*	Yes*	Yes*	Yes*	Yes*	42 U.S.C.S. § 5154a *if developer received federal flood disaster assistance.
Gas and Hazardous Liquid Transmission Pipelines Notice	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes.	No if public report or B&P § 11010.4 exemption ¹ and the property has not been previously occupied; otherwise Yes.	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes.	Cal. Civ. Code §§ 2079.6 & 2079.10.5. The notice is required only in contracts for sale of residential property.
Groundwater Basin Comprehensive Adjudication Notice (if received)	Yes – provide notice separately	Yes – attach notice to TDS	Yes – if TDS required, attach notice. Otherwise provide separately	Yes – if TDS required, attach notice. Otherwise provide separately	Yes – if TDS required, attach notice. Otherwise provide separately	Cal. Code of Civil Procedure § 836(f). General duty to disclose. See Material Facts.
Home Energy Ratings Booklet³ (Booklet Available)	No	No	No	No	No	Cal. Civ. Code § 2079.10; Cal. Pub. Res. Code §§ 25402.9, 25942

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Homeowner's Guide to Earthquake Safety (Booklet)	No	No	No	No	No	Cal. Bus. & Prof. Code § 10149; Cal. Gov't Code §§ 8897.1, 8897.5; Cal. Civ. Code § 2079.8.
Industrial Use Zone Location	No*	Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.17 (disclosure); Cal. Code of Civ. Proc. § 731a. *Answer may be Yes if deemed a "known material fact".
Insulation's Thermal Performance ("R-value")	Yes	Yes	Yes	Yes	Yes	16 CFR §§ 460.3, 460.16.
Lead-Based Paint Pamphlet and Form	No	No	No	No	No	42 U.S.C. § 4852d; 40 CFR Part 745.
Maintenance and Preventative Maintenance Recommendations From Builder	Yes	Yes	Yes	No	No	" SB 800": Cal. Civ. Code §§ 896, 912(b) (c).

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Material Facts⁵	Yes	Yes	Yes	Yes	Yes	Case law: <i>Nussbaum v. Weeks</i> (1990) 214 Cal. App. 3d 1589 (seller's duty); <i>Easton v. Strassburger</i> (1984) 152Cal.App. 3d 90 (agent's duty); Cal. Civ. Code §§ 2079 <i>et seq.</i>
Megan's Law Disclosure (Registered Sex Offender Database)	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption ¹ and not occupied, then No	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 2079.6, 2079.10a.
Mello-Roos and 1915 Bond Act Assessments⁶	Yes	Yes	Yes	Yes	Yes	Cal. Gov't Code § 53341.5.
Meth Lab Clean-Up Order (Release of Illegal Controlled Substance Remediation Order)	N/A	N/A	N/A	Yes (if applicable)	N/A	Cal. Health & Safety Code § 25400.28 (disclosure); §25400.36(q) and (r) (definitions).
Military Ordnance Location	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.15 (disclosure).

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Mold (Disclosure of Excessive Mold or Health Threat)⁷	No*	No*	No*	No*	No*	Cal. Health & Safety Code §§ 26140, 26141, 26147. *Yes when CDHS establishes limits.
Name and Address of Builder's Agent for Service of Process or Third Party Acting on Behalf of Builder	Yes	Yes	Yes	No	No	" SB 800": Cal. Civ. Code §§ 896, 912(e).
Natural Hazard Disclosure Statement	Yes	Yes	Yes	Yes	Yes	Cal. Civ. Code § 1103 <i>et seq.</i>
Pest Control Report	No	No	No	No	No	Cal. Civ Code § 1099.
Prelitigation/Litigation Procedures Notice from SB 800 (Signed and Recorded); Copy of SB 800 (Cal. Civil Code §§ 895 - 945.5); Notice if Builder Electing SB 800 Procedure or Alternative Mediation/Arbitration; and Notice to Buyer to Pass SB 800 Information to Subsequent Buyer	Yes	Yes	Yes	No	No	" SB 800": Cal. Civ. Code §§ 896, 912(f) (h), 914.
Private Transfer Fee (Notice Form)	No*	Yes*	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.6e, 1098, 1098.5. * "Payment of Transfer Fee Required" notice must be recorded.

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Residential Environmental Hazards Booklet (Optional Disclosure)	No	No	No	No	No	Cal. Civ. Code § 2079.7. (delivery is highly recommended).
Seismic Hazard Zone²	Yes	Yes	Yes	Yes	Yes	Cal. Pub. Res. Code § 2694; Cal. Civ. Code §§ 1103 <i>et seq.</i>
Smoke Alarms Must Be In Compliance	Yes	Yes	Yes	Yes	Yes	Cal. Health & Safety Code §§ 13113.7, 13113.8. and local ordinances.
Smoke Alarm Written Statement of Compliance	No (if public report); otherwise Yes*	Yes* ⁸	No	No	No	Cal. Health & Safety Code § 13113.8. *If TDS required, then TDS contains statement of compliance.
Special Flood Hazard Area²	Yes	Yes	Yes	Yes	Yes	Cal. Gov't Code § 8589.3; Cal. Civ. Code §§ 1103 <i>et seq.</i>
State Responsibility Area (Fire Hazard Area)²	Yes	Yes	Yes	Yes	Yes	Cal. Pub. Res. Code §§ 4125, 4136; Cal. Civ. Code §§ 1103 <i>et seq.</i>
Supplemental Property Tax Notice	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.6c (disclosure).

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Transfer Disclosure Statement	No	Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.3 (delivery of statement).
Very High Fire Hazard Severity Zone²	Yes	Yes	Yes	Yes	Yes	Cal. Gov't. Code § 51183.5; Cal. Civ. Code §§ 1103 <i>et seq.</i>
Warranties (Minimum One-Year Written or Enhanced Protection Warranty; and Builder's Limited Contractual Warranties)	Yes	Yes	Yes	No	No	" SB 800": Cal. Civ. Code §§ 896, 900, 903, 912(d).
Water Heater Bracing Requirement	Yes	Yes	Yes	Yes	Yes	Cal. Health & Safety Code § 19211.
Water Heater Bracing Statement of Compliance	Yes	Yes*	Yes*	Yes*	Yes*	Cal. Health & Safety Code § 19211. *If TDS required, then TDS contains statement of compliance.
Window Security Bars (Release Mechanism)	No*	Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	No* if public report or B&P § 11010.4 exemption ¹ ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.16 (disclosure). *Yes if "known material fact".

Showing 1 to 52 of 52 entries

ENDNOTES

1. Business & Professions Code Section 11010.4 refers to those subdivisions where each lot, parcel or unit of the subdivision is located entirely within the boundaries of a city, where there are no common areas, and the lot contains a completed residential structure with all other improvements completed necessary for occupancy (or with financial arrangements determined to be adequate by the city to ensure completion of the improvements). A public report is not required for these subdivisions; however they often have the same disclosure exemptions as for subdivisions subject to the public report requirement—that is what is meant by a “B&P § 11010.4 Exemption.”
2. This information is typically included in disclosure reports obtainable from third-party disclosure reporting companies. In transactions requiring a Natural Hazard Disclosure Statement (NHD), this information must be disclosed on the NHD form (which also may be prepared by a third-party company on behalf of a seller or real estate agent).
3. The delivery of this booklet is not mandatory (unless required by contract), but provides important legal protections to a seller or real estate agent who elects to provide the booklet. This booklet is available as part of the C.A.R. Combined Hazards booklet.
4. This disclosure requirement applies to transferors of "personal, commercial, or residential property" for which flood-related disaster assistance has been provided. As a practical matter, a seller generally can determine, at the time federal disaster assistance is received, whether flood insurance is required by federal agencies for the property in question.
5. A seller or real estate agent involved in the transfer of real property may be liable for failing to disclose material facts affecting the value or desirability of the property. Whether a particular fact is "material" depends on a variety of factors. A seller or real estate agent who is unsure as to the materiality of a particular fact should consult an attorney. Alternatively, many sellers and real estate agents resolve such doubts in favor of disclosure to minimize exposure to liability. While the disclosure of certain material facts sometimes must be made in a particular format (e.g., the Transfer Disclosure Statement), the law generally does not regulate how material facts must be disclosed (though written disclosure is always recommended).
6. Subdividers and their agents may have to comply with Mello-Roos district disclosure obligations under California Government Code § 53341.5.
7. This disclosure need not be made until the CDHS establishes permissible mold exposure limits. The CDHS has not yet taken this action, and the law does not specifically require any alternative disclosure in the interim.
8. However, a written statement of compliance is not a requirement for single family properties and duplexes where the property is exempt under the TDS law. Except that, transfers to or from governmental entities, and transfers of property acquired by a beneficiary after a foreclosure or trustee's sale, or after a deed in lieu, which are exempt under the TDS law, are not exempt from a statement of compliance.

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