

REO Chart

Member Legal Services

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The continuing foreclosures by banks and other private lenders and subsequent sales of these properties including real estate owned by banks (known as REO properties) necessitates knowledge of the disclosure requirements when selling these properties. This chart provides REALTORS® and their clients with an easy-to-use reference guide for determining the general applicability of common disclosure laws for **residential real properties of one-to-four units**. This chart, however, pertains only to properties, including REO properties, acquired by any lender--private or otherwise--through the foreclosure process or by deed-in-lieu of foreclosure. For the disclosure requirements of other types of property, please see the **Sales Disclosure Chart** for the general information and the **Summary Disclosure Chart** for more details and exemptions.

The list of disclosure requirements in this chart is in alphabetical order. Immediately below the name of each disclosure requirement is, in parentheses, any applicable C.A.R. standard form that may be used to satisfy that disclosure requirement. This chart also indicates whether a disclosure is legally required, recommended, or not required, and provides an explanation for each determination. For more information, the legal authorities for the disclosure laws cited in the explanation boxes are available at <http://www.leginfo.ca.gov> for California statutes and <http://uscode.house.gov> for federal statutes.

This chart does not cover all disclosure requirements. Examples of items not covered in this chart are disclosure requirements pertaining to local city and county requirements, new subdivisions, government housing, manufactured homes, and others.

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DISCLOSURE

(and C.A.R. Form)▼

DELIVERY TO BUYER

EXPLANATION

**Advisability of Title
Insurance Notice**

Required

If title insurance will not be issued to the buyer of an owner-occupied residential property with one-to-four units, a notice of the advisability of title insurance must be provided in a separate document to the buyer (Cal. Civ. Code § 1057.6). There is no exemption from this requirement for an REO sale. This is typically handled by escrow.

DISCLOSURE**DELIVERY TO BUYER****EXPLANATION**

(and C.A.R. Form)✓

Agency Disclosure Statement

(C.A.R. Form AD)

Required

A real estate agent must provide an agency disclosure statement for a transaction involving one-to-four residential units, commercial, industrial vacant land properties; and residential income with 5 units or more and not on certain subdivision sales (Cal. Civ. Code § 2079.14). There is no exemption for an REO sale. However, if the seller or buyer refuses to sign an acknowledgement of receipt, the agent shall set forth, sign, and date a written declaration of the facts of the refusal (Cal. Civ. Code § 2079.15).

Agent's Duty to Visually Inspect and Disclose

(C.A.R. Form AVID)

Required

For residential property with one-to-four units (except for certain subdivisions), a real estate agent is required to conduct a reasonably competent and diligent visual inspection and to disclose to the buyer all facts materially affecting the value or desirability of the property that an investigation would reveal (Cal. Civ. Code § 2079). There is no exemption from this requirement for REO sales. C.A.R. Form AVID is not a legally-mandated form, but an agent is strongly advised to use the form to document that he or she has performed the legally required visual inspection.

Airport in Vicinity

Not Required

An REO lender is exempt from the requirement of providing an NHD Statement (Cal. Civ. Code § 1103.1(a)(2)), but is not exempt from other provisions of California law requiring a seller to disclose that a property is located in any of six natural hazard zones. It is therefore highly advisable for an REO lender to obtain an NHD Statement from a third-party disclosure reporting company. The NHD expert is required to include the fact that the property is "within an airport influence area" (Cal. Civ. Code § 1103.4(c)(1)). Although the REO lender is exempt from this disclosure requirement, the lender must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts below).

C.A.R.'s Combined Hazards Book

(4-part booklet)

Part 1: Recommended

Part 2: **Required**

Part 3: Recommended

Part 4: Recommended

REO lenders and agents are strongly encouraged to provide C.A.R.'s 4-part Combined Hazards booklet to prospective buyers.

- Part 1 is the Residential Environmental Hazards booklet, which is not required for any transaction. However, the law expressly shields a seller and agent from liability by deeming delivery of the booklet as adequate in informing the buyer about common environmental hazards (Cal. Civ. Code § 2079.7(a)).
- Part 2 is "Protect Your Family From Lead in Your Home," and required for most residential properties built before 1978 (see Lead-Based Paint Hazards below), including REO sales.
- Part 3 is the "Home Energy Rating Systems" booklet, which is not required for any transaction. However, the law expressly shields a seller and agent from liability by deeming delivery of the booklet as adequate in informing the buyer about the existence of the home energy rating program.
- Part 4 is the Homeowner's Guide to Earthquake Safety (and the Residential Earthquake Hazards Report). Although an REO sale is exempt from this disclosure requirement, delivery is highly advisable as the law deems it as adequate in informing the buyer about geologic and seismic hazards in general (Cal. Civ. Code § 2079.8(a)).

DISCLOSURE**DELIVERY TO BUYER****EXPLANATION**

(and C.A.R. Form)✓

Carbon Monoxide Detector Compliance

Recommended

No compliance certification is required nor is installation a precondition of sale or transfer. However, the law requires that all existing single-family homes have them installed on or before July 1, 2011 and all other existing dwelling units on or before Jan. 1, 2013.

Condominium or Other Common Interest Development Documents**Required**

(C.A.R. Form HOA 1, 2, and 3)

The seller of a condominium or other separate interest in a common interest development must provide the governing documents and other items to a prospective buyer (Cal. Civ. Code § 1368(a)). There is no exemption from this requirement for an REO sale. The seller may use C.A.R. Form HOA to request a Homeowners' Association to provide these condominium documents.

Death (in last 3 years)**Required (if material)**

The transferor/agent has no liability for not disclosing the fact of any death which occurred more than 3 years prior to the date the transferee offers to buy, lease, or rent the property. Such death or the manner of death are NOT material facts that require disclosure. Any death which has occurred within a 3-year period should be disclosed if deemed to be "material."

Affliction with AIDS or death from AIDS-related complications, no matter when it occurred, need not be voluntarily disclosed. However, neither a seller nor seller's agent may make an intentional misrepresentation in response to a direct question concerning AIDS/death from AIDS on the property. An agent may simply respond that discussing such information may constitute prohibited discriminatory conduct. Cal Civ. Code § 1710.2

Energy Use Report**Required**

This law has been repealed effective January 1, 2016. Cal.Pub.Res. Code § 25402.10.

For the lease, sale or financing of commercial properties, this report must be generated by the EPA's Energy Star Portfolio Manager and be delivered 24 hours prior to execution of contract or loan application. An account with the EPA's Energy Star program must be opened or updated 30 days before disclosure is made.

The effective date of the law depends on the size of the building. For buildings with sq. ft. 50,000 or more, it is January 1, 2014. For buildings with sq. ft. 10,000 to 50,000, it is January 1, 2014. For buildings with sq. ft. 5,000 to 10,000 it is July 1, 2016.

(Public Resources Code 25402.10)

Farm or Ranch Proximity

Not Required

An REO lender is exempt from the requirement of providing an NHD Statement (Cal. Civ. Code § 1103.1(a)(2)), but is not exempt from other provisions of California law requiring a seller to disclose that a property is located in any of six natural hazard zones. It is therefore highly advisable for an REO lender to obtain an NHD Statement from a third-party disclosure reporting company. The NHD expert is required to include the fact that the property is located within one mile of a farm or ranch as designated on a GIS map (Cal. Civ. Code § 1103.4(c)(3)). Although the REO lender is exempt from this disclosure requirement, the lender must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts below).

DISCLOSURE**DELIVERY TO BUYER****EXPLANATION**

(and C.A.R. Form)▼

Final Inspection Report including defensible space compliance (If obtained)

(C.A.R. form FHDS)

Effective January 1, 2020

Not Required

This disclosure may apply to property located in a Very High Fire Hazard Severity Zone. Upon completion of construction or rebuilding, and if report was obtained, seller shall provide certification ("Final Inspection Report") from local building official that property complies with all applicable building standards including defensible space laws.

(Civ. Code § 1102.6f(b))

Fire Home Hardening

(C.A.R. form FHDS)

Effective January 1, 2021 and July 1, 2025

Not Required

From 2021, the seller must provide to the buyer the statutory notice; and a list of home hardening features the home lacks based on the seller's actual knowledge. From July 2025, the seller will list home hardening retro-fits completed by seller. (Civ. Code § 1102.6f)

Fire Defensible Space Compliance

(C.A.R. form FHDS)

Effective July 1, 2021

Not Required

If a local jurisdiction has enacted a local vegetation management ordinance or a law that requires compliance by the owner with the state defensible space laws, then the seller of a property, located in designated high or very high fire areas, must provide the buyer with documentation at point of sale stating that the property is in compliance. If there is no such local law, the seller shall provide documentation of compliance with state defensible space law, assuming the seller obtained such documentation within six months prior to entering into the transaction. But if neither of the above, the seller and the buyer must enter into a written agreement in which the buyer agrees to obtain documentation of compliance with defensible space law of local after closing. (Civ. Code § 1102.19)

Flood Insurance for Disaster Relief Assistance

(C.A.R. Form SPQ or ESD)

Required

If federal disaster relief assistance conditioned upon obtaining flood insurance has been provided for a property, the transferor must disclose the requirement of obtaining flood insurance to the buyer in writing (42 U.S.C. § 5154a). There is no exemption from this requirement for an REO sale. C.A.R. Form SPQ or SSD may be used to disclose any disaster relief assistance.

Gas and Hazardous Liquid Transmission Pipeline Notice

This notice is preprinted in C.A.R. standard form purchase agreements.

Required

This notice applies to every contract for the sale of single-family residential real property entered into on or after July 1, 2013.

The notice informs the buyer of the National Pipeline Mapping System website where general information about the location of gas and hazardous liquid transmission pipelines is maintained.

DISCLOSURE**DELIVERY TO BUYER****EXPLANATION**

(and C.A.R. Form)▼

Groundwater Basin Comprehensive Adjudication Notice (if received)	Required (if received by seller)	A seller of real property must disclose known facts that materially affect the value or desirability of the property. Real property that is located in a basin that is undergoing an adjudication is very likely such a material fact, and it should be disclosed to the buyer that the adjudication process is underway by at a minimum providing the buyer with the comprehensive adjudication notice.
Industrial Use Zoning	Not Required	A residential seller must generally disclose any actual knowledge that a property is affected by or zoned to allow commercial, manufacturing, or airport use (Cal. Civ. Code § 1102.17). An REO lender is exempt from this disclosure requirement, but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts below).
Lead-Based Paint Hazards Disclosure (C.A.R. Forms RPA-CA, FLD, and C.A.R.'s Combined Hazards Book)	Required	<p>Under federal law, a seller of residential property built before 1978 must generally disclose lead-based paint hazards. An REO lender is not exempt from this law, which requires:</p> <ol style="list-style-type: none">(1) Providing the buyer with an EPA-approved lead hazard pamphlet (such as "Protect Your Family From Lead in Your Home" in Part 2 of C.A.R.'s Combined Hazards Book);(2) Providing the buyer with a 10-day opportunity to inspect for lead-based paint hazards, unless otherwise agreed in writing (e.g., C.A.R. Form RPA-CA paragraph 14B(1));(3) Providing the buyer with a lead-based paint disclosure statement (e.g., C.A.R. Form FLD); and(4) Disclosing any known lead-based paint or lead-based paint hazard in the property (e.g., C.A.R. Form FLD) (42 U.S.C. 4852d and 40 C.F.R. § 745.107).
Material Facts (C.A.R. Form ESD will typically be required by contract.)	Required	A seller is required to disclose any known material facts affecting the value or desirability of the property. Whether something is material or immaterial will ultimately be decided, if necessary, through the legal process by a judge, jury, or arbitrator, based on the facts and circumstances of the case. There is no exemption from this disclosure requirement for an REO sale. Although not legally mandated, C.A.R. Form ESD is required contractually with most C.A.R. purchase agreements when the transaction is TDS exempt, such as an REO sale.
Megan's Law Disclosure (C.A.R. Form RPA-CA, paragraph 10D)	Required	A residential seller must generally disclose the availability of a database of registered sex offenders in at least 8-point type font (Cal. Civ. Code § 2079.10a). There is no exemption from this requirement for an REO sale. If an REO lender drafts its own sales contract, rather than use C.A.R. Form RPA-CA, the Megan's Law disclosure is still required.

DISCLOSURE

(and C.A.R. Form)▼

DELIVERY TO BUYER**EXPLANATION****Mello-Roos Tax and
1915 Bond Act
Assessment Notice
and Voluntary
Contractual
Assessment**

Not Required

A residential seller must generally make a good faith effort to obtain a notice of a Mello-Roos special tax, a 1915 Bond Act assessment, or a notice concerning contractual assessment. An REO lender is exempt from this requirement (Cal. Civ. Code § 1102.6b), but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above).

**Meth Lab
Clean-Up Order**(C.A.R. Form SPQ or SSD
or MCN¹)**Required**

A seller must disclose in writing to a buyer a pending order issued by a local health officer prohibiting the use or occupancy of a property contaminated by meth lab activity. The seller must also give a copy of the pending order to the buyer to acknowledge receipt in writing. (Cal. Health & Safety Code § 25400.28.) There is no exemption from this requirement for an REO sale.

**Military Ordinance
Location**

Not Required

A residential seller must generally disclose any actual knowledge of a military ordinance location within one mile (Cal. Civ. Code § 1102.15). An REO lender is exempt from this requirement, but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above).

Mining Operations

Not Required

An REO lender is exempt from the requirement of providing an NHD Statement (Cal. Civ. Code § 1103.1(a)(2)), but is not exempt from other provisions of California law requiring a seller to disclose that a property is located in any of six natural hazard zones. It is therefore highly advisable for an REO lender to obtain an NHD Statement from a third-party disclosure reporting company. The NHD expert is required to include the fact that the property is located within one mile of a mine operation if so reported on an Office of Mine Reclamation map. (Cal.Civ.Code § 1103.4(c)(4)). Although the REO lender is exempt from this disclosure requirement, the lender must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above).

DISCLOSURE**DELIVERY TO BUYER****EXPLANATION**

(and C.A.R. Form)▼

Natural Hazard Disclosure Statement form is optional but the disclosure that the property is located in a natural hazard zone is required.

No C.A.R. form

Recommended

An REO lender is exempt from the requirement of providing an NHD Statement (Cal. Civ. Code § 1103.1(a)(2)), **but is not exempt** from other provisions of California law requiring a seller to **disclose that a property is located in any of six natural hazard zones**. It is therefore highly advisable for an REO lender to obtain an NHD Statement from a third-party disclosure reporting company. (Form NHD has been discontinued from the C.A.R. Forms Library since this form is typically provided by the third-party disclosure reporting company.)

- Special Flood Hazard Area (Cal. Gov't Code § 8589.3).
- Area of Potential Flooding (Cal. Gov't Code § 8589.4).
- Very High Fire Hazard Severity Zone (Cal. Gov't Code § 51183.5).
- State Fire Responsibility Area (Cal. Pub. Res. Code § 4136).
- Earthquake Fault Zone (Cal. Pub. Res. Code § 2621.9).
- Seismic Hazard Zone (Cal. Pub. Res. Code § 2694).

Pest Control Inspection Report and Certification

(wood destroying pests or organisms)

Required
(if in contract or buyer's lender requires)

A seller or seller's agent, for the transfer of any real property, must deliver pest inspection report and subsequent certification (of work completed) to buyer only if required by contract or the buyer's lender.

Private Transfer Fee Notice

Not Required

A residential seller must generally provide a Notice of Transfer Fee to a buyer (Cal. Civ. Code § 1102.6e). An REO lender is exempt from this requirement, but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above).

REO Advisory

(C.A.R. Form REO)

Recommended

C.A.R. Form REO is a supplement to the C.A.R. purchase agreements that addresses issues pertaining to REO transactions, such as the disclosure requirements. It also informs the seller and buyer that brokers cannot give legal advice on lender-prepared agreements and other documents. Form REO is not legally required, but it is highly recommended for an REO sales transaction.

REO Advisory (Listing)

(C.A.R. Form REOL)

Recommended

C.A.R. Form REOL is a supplement to the C.A.R. listing agreements that addresses issues pertaining to REO listings, such as the disclosure requirements. Form REOL is not legally required, but it is highly recommended when taking a listing for an REO property.

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(and C.A.R. Form)▼

Seller's Affidavit of Nonforeign Status (under FIRPTA) and California Withholding Exemption

(C.A.R. Form AS)

Recommended or Tax Withholding May Be Required

Under federal FIRPTA law, a buyer must withhold 10 percent of the sales price from the seller's proceeds, and send that amount to the IRS, unless an exemption applies. An exemption is available if, for example, an REO lender provides a written certification it is a nonforeign corporation (26 U.S.C. § 1445). Similarly, under state law, a buyer must withhold 3 1/3 percent of the sales price, and send that amount to the FTB, unless an exemption applies. An exemption is available if, for example, an REO lender provides written certification that it is a corporation qualified through the California Secretary of State or has a permanent place of business in California (Cal. Rev. & Tax Code § 18662(e)(3)(D)(v)).

C.A.R. AS may be used for both California and federal withholding. However, in regard to California withholding it only explains to the buyer that the seller will provide the necessary information to the escrow.

Smoke Alarms

(C.A.R. Form WHSD)

Required

The seller of a single-family or two-unit dwelling must deliver to the buyer a written statement of compliance with the smoke alarm law (Cal. Health & Safety Code § 13113.8(b)). There is no exemption from this requirement for an REO sale.

Statewide Buyer and Seller Advisory

(C.A.R. Form SBSA)

Recommended

C.A.R. Form SBSA advises both the seller and buyer of various factors that may affect a sales transaction. Form SBSA is not legally required, but it is a highly recommended form to use in any real estate transaction, including an REO sale.

Supplemental Property Tax Notice

(C.A.R. Form SBSA)

Not Required

A residential seller must generally deliver a Notice of Supplemental Property Tax Bill to a buyer (Cal. Civ. Code § 1102.6c). An REO lender is exempt from this requirement, but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above). Form SPT has been discontinued in the C.A.R. forms library since this information may be provided through the SBSA

Transfer Disclosure Statement (TDS)

Not Required

A residential seller must generally provide a TDS to the buyer disclosing the features and condition of a property (Cal. Civ. Code § 1102). An REO lender is exempt from this requirement, but must nevertheless disclose any known material facts that may affect the value or desirability of the property (see Material Facts above).

DISCLOSURE

DELIVERY TO BUYER

EXPLANATION

(and C.A.R. Form)∨

**Water Conserving
Fixtures
(SB 407)**

Applies only to real property built on or before Jan. 1, 1994.

Installation of water conserving plumbing fixtures is required by virtue of ownership. It is not a point of sale requirement. However, there is no exemption for REO sales.

**Disclosure Required
Installation Not Required**

The seller or transferor must disclose in writing to the prospective transferee that the law requires that noncompliant plumbing fixtures must be replaced with water-conserving plumbing fixtures and the required date, and also whether the real property includes any noncompliant plumbing fixtures (Cal. Civ. Code § 1101.4(c) single family and Cal. Civ. Code § 1101.5(a) multi-family and commercial).

C.A.R. Form ESD may be used. Form WCMD is optional.

**Water Heater
Bracing**

Required

(C.A.R. Form WHSD)

The seller of any real property containing a water heater must certify in writing to the buyer that the existing residential water heater is properly braced, anchored, or strapped (Cal. Health & Safety Code § 19211). There is no exemption from this requirement for REO sales.

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should seek the advice of an attorney.