



CalDisclosures

Your source for the disclosure forms and booklets
required by the California Department of Real Estate

CAL DRE #00642780

[Editor's Note: The following excerpt is from the California Department of Real Estate's booklet "Disclosures in Real Property Transactions" Part I Transfer and Financing of Real Property, Section I Disclosures Required of a Seller and/or Real Estate Broker/Agent,, D. Disclosure Regarding Lead-Based Paint Hazards]

Disclosure Regarding Lead-Based Paint Hazards

Many housing units in California still contain lead-based paint. This paint was banned for residential use in 1978. Lead-based paint can peel, chip, and deteriorate into contaminated dust, thus becoming a hazard. A child's ingestion of the lead-laced chips or dust may result in learning disabilities, delayed development or behavior disorders.

The federal Real Estate Disclosure and Notification Rule (the Rule) requires that owners of "residential dwellings" built before 1978 to disclose to their agents and to prospective buyers or lessees/renters the known presence of or any information and any reports about lead-based paint and/or lead-based paint hazards (e.g., location and condition of the painted surfaces, etc.). The Rule defines a residential dwelling as a single-family dwelling or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

Properties affected by the Rule are termed "target housing." Target housing does **not** include pre-1978 housing which is:

- Sold at a foreclosure sale (but a subsequent sale of such a property is covered);
- A "0-bedroom dwelling" (e.g., a loft, efficiency unit or studio);

- A dwelling unit leased for 100 or fewer days (e.g., a vacation home or short-term rental), provided the lease cannot be renewed or extended;
- Housing designated for the elderly or handicapped, unless children reside or are expected to reside there;
- Leased housing for which the requirements of the Rule have been satisfied, no pertinent new information is available, and the lease is renewed or renegotiated; or
- Rental housing that has been inspected by a certified inspector and found to be free of lead-based paint.

Sellers and lessors of units in pre-1978 multifamily structures must provide a buyers or lessees with any available records or reports pertaining to lead-based paint and/or lead-based paint hazards in areas used by all the residents (e.g., stairwells, lobbies, recreation rooms, laundry rooms, etc.). If there has been an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the entire structure, the disclosure requirement extends to any available records or reports regarding the other dwelling units.

The Rule requires that a seller of target housing offer a prospective buyer 10 days to inspect for lead-based paint and lead-based paint hazards. The 10 days to inspect can be increased, decreased, or waived by written agreement between buyer and seller. The Rule does not require a seller to pay for an inspection or to remove any lead-based paint/hazards, but gives a buyer the opportunity to have the property inspected. A list of certified lead inspectors and contractors is available by calling the California Department of Health Services at 1-800-597-LEAD.

The federal Environmental Protection Agency (EPA) publishes a pamphlet entitled, "*Protect Your Family From Lead In Your Home*," which is available at <http://www.epa.gov/opptintr/lead/leadprot.htm>. This pamphlet describes ways to recognize and reduce lead hazards. The Rule requires that a seller or lessor/landlord of target housing deliver this pamphlet to a prospective buyer or lessee/tenant before a purchase, lease or rental agreement is formed.

The Rule further requires that the seller's or lessor's/landlord's Lead-Based Paint or Lead-Based Paint Hazards Disclosures; the Lead Warning Statement; and the prospective buyer's or lessee's/tenant's acknowledgment of receipt of that information; the offer of inspection period (or waiver of same); and the EPA pamphlet each be included in an attachment to the transaction documentation. The Seller or lessor/landlord, the prospective buyer or lessee/tenant, and the agent(s) must each sign and date the attachments. The retention period for sellers or lessors/landlords and agent(s) of this document is three years from completion of the sale or transfer, or from commencement of the lease/rental.

A real estate agent must ensure that:

- His or her principal (seller/lessor/landlord) is aware of the disclosure requirements;
- The transaction documentation includes the required notifications and disclosures;
- The buyer or lessee/renter receives the EPA pamphlet; and
- In the case of a sale or transfer, the buyer is offered an opportunity to have the property inspected for lead-based paint and lead-based paint hazards.

Violation of the Rule may result in civil and/or criminal penalties. For the purposes of these requirements, real estate "agent" does not include one who represents only the buyer and receives compensation only from the buyer.

To obtain the essential compliance information, a person may call the EPA at 1-800-424-LEAD.

(42 U.S.C. § 4852d; 24 C.F.R.. PART 35; CAL. HEALTH & SAFETY §§ 124125 to 124165)