



CALIFORNIA  
ASSOCIATION  
OF REALTORS®

## New Home Disclosure Chart

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This disclosure chart is intended to assist REALTORS® who sell new residential construction 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.

Disclosure	New Single-Family Home <u>With</u> Public Report or B&P § 11010.4 Exemption <sup>1</sup>	New Single-Family Home <u>Without</u> Public Report or B&P § 11010.4 Exemption <sup>1</sup>	New Condominium	New Condominium 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 <sup>1</sup> ; otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption <sup>1</sup> <u>and</u> not occupied, then No	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code § 2079.6.
Area of Potential Flooding <sup>2</sup>	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 <sup>1</sup> ; otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption <sup>1</sup> and not occupied, then No	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; 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>  *Existing owner must install by July 1, 2011 (Cal. Health & Safety Code § 17926).
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.

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<p>Common Interest Development Documents I:</p> <p>CC&amp;Rs, Articles of Incorpor., Bylaws, Rules &amp; Policies, Current Financial Information (Operating Budget), Assessments, Assoc. Insurance, Civil Code Section 1133 Notice (if applic.), Enforceable Policies/Fine Structure</p>	Yes (if in a planned development)	Yes (if in a planned development of 4 units or less)	Yes	Yes	Yes (if in a planned development)	Cal. Bus. & Prof. Code § 11018.6; Cal. Civ. Code §§ 1365, 1368.
<p>Common Interest Development Documents II:</p> <p>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 prohibitors, if any</p>	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. §§ 1368,1368.2 CAR Form HOA (p.2)

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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.
Earthquake Fault Zone <sup>2</sup>	Yes	Yes	Yes	Yes	Yes	Cal. Pub. Res. Code §§ 2621 et seq.; Cal. Civ. Code §§ 1103 et seq.
FHA/HUD Inspection Notice	Yes	Yes	Yes	Yes	Yes	HUD Mortgagee Letters 06-24 and HUD handbook 4155.2 (only FHA loans or HUD-owned property).  Not required for properties “under construction.” Lender to provide notice.
FIRPTA (Federal Tax Withholding) and California Tax Withholding	Yes	Yes	Yes	Yes	Yes	Cal. Rev. & Tax Code §§ 18662, 18668; 26 U.S.C. §1445.

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Flood Disaster Insurance Requirements <sup>4</sup>	Yes*	Yes*	Yes*	Yes*	Yes*	42 U.S.C.S. § 5154a  *if developer received federal flood disaster assistance.
Home Energy Rating System (HERS) Booklet  (Optional Disclosure <sup>3</sup> Booklet Available)	No	No	No	No	No	Cal. Civ. Code § 2079.10; Cal. Pub. Res. Code §§ 25402.9, 25942.
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 <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; 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.

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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).
Material Facts <sup>5</sup>	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) 152 Cal. 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 <sup>1</sup> ; otherwise Yes	Yes; but if public report or B&P § 11010.4 exemption <sup>1</sup> <u>and</u> not occupied, then No	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 2079.6, 2079.10a.
Mello-Roos and 1915 Bond Act Assessments <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Cal. Gov’t Code § 53341.5.
Meth Lab Clean-Up Order (Release of Illegal Controlled Substance)	N/A	N/A	N/A	Yes (if applicable)	N/A	Cal. Health & Safety Code § 25400.28 (disclosure); §25400.36(q) and (r)

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Remediation Order)						(definitions).
Military Ordnance Location	No	Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.15 (disclosure).
Mold (Disclosure of Excessive Mold or Health Threat) <sup>7</sup>	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 SB800 (Signed and Recorded);  <a href="#">Copy of SB 800</a> (Cal. Civil Code §§ 895 - 945.5);  Notice if Builder Electing SB 800 Procedure or	Yes	Yes	Yes	No	No	"SB 800": Cal. Civ. Code §§ 896, 912(f) (h), 914.

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Alternative Mediation/Arbitration; and Notice to Buyer to Pass SB 800 Information to Subsequent Buyer						
Private Transfer Fee (Notice Form)	No*	Yes*	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 1102.6e, 1098, 1098.5  * "Payment of Transfer Fee Required" notice must be recorded.
Residential Environmental Hazards Booklet (Optional Disclosure)	No	No	No	No	No	Cal. Civ. Code § 2079.7 (delivery is highly recommended).
Seismic Hazard Zone <sup>2</sup>	Yes	Yes	Yes	Yes	Yes	Cal. Pub. Res. Code § 2694; Cal. Civ. Code §§ 1103 <i>et seq.</i>
Smoke Detectors Must Be In Compliance	No* (if public report); otherwise Yes	Yes	Yes	Yes	Yes	Cal. Health & Safety Code §§ 13113.7, 13113.8.  *Must check local ordinances.
Smoke Detector Written Statement of Compliance	No (if public report); otherwise Yes*	Yes*	No	No	No	Cal. Health & Safety Code § 13113.8.  *If TDS required, then TDS contains



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						statement of compliance.
Special Flood Hazard Area <sup>2</sup>	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) <sup>2</sup>	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 <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.6c (disclosure).
Transfer Disclosure Statement	No	Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.3 (delivery of statement).
Very High Fire Hazard Severity Zone <sup>2</sup>	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).

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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 <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	No* if public report or B&P § 11010.4 exemption <sup>1</sup> ; otherwise Yes	Cal. Civ. Code §§ 1102.2(a) (exemption), 1102.16 (disclosure)  *Yes if “known material fact”.

## **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 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.

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The information contained herein is believed accurate as of Jan. 1, 2011. It is intended to provide general answers to general questions and is not intended as a substitute for individual legal advice. Advice in specific situations may differ depending upon a wide variety of factors. Therefore, readers with specific legal questions should seek the advice of an attorney.