

42 USC 4852 - Sec. 4852d. Disclosure of information concerning lead upon transfer of residential property

(a) Lead disclosure in purchase and sale or lease of target housing

- (1) Lead-based paint hazards Not later than 2 years after October 28, 1992, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease.

The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall –

- (A) Provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act [15 U.S.C. 2686];
 - (B) Disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and
 - (C) Permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.
- (2) Contract for purchase and sale Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has –
- (A) Read the Lead Warning Statement and understands its contents;
 - (B) Received a lead hazard information pamphlet; and
 - (C) Had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.
- (3) Contents of lead warning statement The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory.

Lead poisoning also poses a particular risk to pregnant women.

The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

- (4) Compliance assurance Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.
- (5) Promulgation A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act [15 U.S.C. 2619] to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) Penalties for violations

- (1) Monetary penalty Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 3545 of this title.
- (2) Action by Secretary The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.
- (3) Civil liability Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.
- (4) Costs In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.
- (5) Prohibited act It shall be a prohibited act under section 409 of the Toxic Substances Control Act [15 U.S.C. 2689] for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section.

For purposes of enforcing this section under the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], the penalty for each violation applicable under section 16 of that Act [15 U.S.C. 2615] shall not be more than \$10,000.

(c) Validity of contracts and liens

Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) Effective date

The regulations under this section shall take effect 3 years after October 28, 1992.

FTHB # _____

DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS

Lead Warning Statement:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in your children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure (initial)

1. Presence of lead-based paint and/or lead-based paint hazards (check one below):

- (a) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain below):
1) _____
- (b) _____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

2. Records and reports available to the seller (check one below):

- (a) _____ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below):
1) _____
- (b) _____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

3. _____ Purchaser has received copies of all information listed above.
4. _____ Purchaser has received the pamphlet "Protect Your Family from Lead in Your Home".
5. _____ Purchaser has: (check one below):
- (a) _____ Received a 10-day opportunity (or mutually agreed upon period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- (b) _____ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

6. _____ Agent has informed the seller of the requirements of "(d)isclosure of information concerning lead upon transfer of residential property" obligations under 42 U.S.C. 4852 (d) and is aware of his/her responsibility to ensure compliance. (*Information on 42 U.S.C. 4852 (d), "Disclosure of information concerning lead upon transfer of residential property", can be obtained from <http://www.access.gpo.gov/nara/cfr/index.html>!.*)

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

Seller(s) _____

Buyer(s) _____

Buyer(s) _____

Agent(s) _____