

# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency:

Department of State, Bureau of Professional and Occupational  
Affairs, State Real Estate Commission

(2) Agency Number:

Identification Number: 16A-5618

IRRC Number:

2838

(3) Short Title: Seller Property Disclosure Statement

(4) PA Code Cite: 49 Pa. Code §§ 35.284a and 35.335a

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Judith Pachter Schulder, Counsel, State Real Estate Commission P.O. Box 2649,  
Harrisburg, PA 17110-2056 (phone—783-7200 fax--787-0251) jschulder@state.pa.us.

Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State P.O. Box 2649,  
Harrisburg, PA 17110-2056 (phone—783-7200 fax--787-0251) jmckeever@state.pa.us.

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email  
Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation adds a seller property disclosure statement to the Commission's regulations as required by section 7304(a) of the Real Estate Seller Disclosure Law (SDL)(68 Pa. C.S. §7304(a)) and adds the duties of licensees under the SDL to § 35.284a.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days from publication as proposed.
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Fall 2010
- D. The expected effective date of the final-form regulation: Upon publication of the final-form rulemaking in the Pennsylvania Bulletin.
- E. The date by which compliance with the final-form regulation will be required: Upon publication of the final-form rulemaking in the Pennsylvania Bulletin.
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(10) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations.

## **SECTION II: STATEMENT OF NEED**

(11) State the statutory authority for the regulation. Include specific statutory citation.

Section 7304(a) of the Real Estate Seller Disclosure Law (SDL) (68 Pa. C.S. § 7304(a)) directs the Commission to promulgate a property disclosure statement that satisfies the requirements of § 7304(b). Additionally, Section 404 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.404) authorizes the Commission to promulgate and adopt regulations in order to administer and effectuate the purposes of the RELRA. Section 604(a)(15.1) of the RELRA (63 P.S. § 455.604(a)(15.1)) makes failing to provide a disclosure required by another law in connection with a real estate transaction a disciplinary offense.

## Regulatory Analysis Form

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. Under section 7304(a) of the SDL (68 Pa. C.S. § 7304(a)), the Commission is required to promulgate a property disclosure statement that satisfies the requirements of subsection (b). Until that time, under subsection (c), the statement contained in the SDA satisfies the requirements of the SDL.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is necessary to implement section 7304(a) of the SDL (68 Pa. C.S. §7304(a). Additionally, the Commission has received questions and has disciplined licensees in connection the duties on licensees under the SDL.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

There are no perceived people or groups of people who will be adversely affected. Since the passage of the Real Estate Seller Disclosure Act (SDA)(68 P.S. 1021-1036), repealed and replaced by the SDL, licensees have been required to advise sellers about their disclosure requirements in certain residential transfers and provide sellers with a property disclosure statement.

## Regulatory Analysis Form

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Real estate brokers, associate brokers and salespersons that represent buyers and sellers are required to provide copies of the property disclosure statement to their principals. Currently, there are approximately 5,000 brokers, 4,275 associate brokers and 36,760 salespersons in the Commonwealth.

### **SECTION III: COST AND IMPACT ANALYSIS**

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation will not result in increased costs or savings to the regulated community and will not require legal, accounting or consulting procedures.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation will not result in increased costs or savings to local government and will not require legal, accounting or consulting procedures.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation will not result in increased costs or savings to state government and will not require legal, accounting or consulting procedures.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Real Estate Commission	\$2,654,819.51	\$2,803,605.90	\$3,150,494.59	\$3,541,000.00

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

In that there are no additional costs associated with this regulation and there should be no adverse effects and costs associated with compliance as licensees currently provide a property disclosure statement to consumers.

## Regulatory Analysis Form

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards and associations to preliminarily review and comment on the Commission's draft regulatory proposal: Pennsylvania Association of Realtors, Realtors Educational Institute, Institute of Real Estate Studies, Polley Associates, Pennsylvania Cemetery & Funeral Association, Pennsylvania Bar Association, Allegheny Highland Association, Greater Allegheny-Kiski Area Board, Allegheny Valley Board, Beaver County Association, Bradford-Sullivan County Association, Bucks County Board, Butler County Association, Cambria-Somerset Association, Carbon County Association, Carlisle Association; Central Montgomery County Association, Central Susquehanna Valley Board, Centre County Association, Chester County Association, Delaware Valley Realtors Association, East Montgomery County Association, Elk-Cameron County Board, Greater Erie Board, Fayette County Board, Franklin County Association, Greenville Area Board, Hanover-Adams County Association, Greater Harrisburg Association, Greater Hazleton Association, Huntingdon County Board, Indiana County Board, Lancaster County Association, Lawrence County Board, Lebanon County Association, Lehigh Valley Association, McKean County Association, Greater Meadville Board, Greater Mercer County Board, Mifflin-Juniata County Board, Mon Yough Association, Monongahela Valley Board, Montgomery County Association, Greater Hagerstown Realtors, Realtors Assoc. of York & Adams Counties, Pennsylvania Realtors Institute, Pennsylvania Association of Private School Administrators, Greater Philadelphia Association, North Central Penn Board, Pike/Wayne Association, Pocono Mountains Association, Reading-Berks Association, Realtors Association of Metropolitan Pittsburgh, Schuylkill County Board, Greater Scranton Association, Tri-State Commercial and Industrial Association, Warren County Board, Washington-Greene Association, West Branch Valley Association, Westmoreland West Association, Greater Wilkes-Barre Association, The Pennsylvania Federation of Housing Counselors and Agencies, and The Real Estate Consumer Council.

In formulating this proposal, the Commission reviewed and considered all comments and suggestions received by these and other interested parties during the regulatory development process.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Because this regulation was mandated by statute, no other regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal licensure standards.

## Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Each state has its own Property Disclosure Statement mandated by its state statute.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect any regulations of the Board or other state agencies.

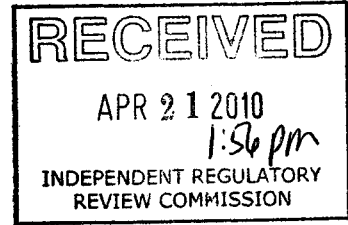
(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation will not change existing reporting requirements, record keeping or paperwork requirements as licensees are already required to provide a property disclosure statement to consumers.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board is aware of no special needs of any subset or group which should be excepted.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Real Estate Commission  
(AGENCY)

BY: \_\_\_\_\_  
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-5618

MAR 25 2010  
DATE OF APPROVAL

APR 08 2010

DATE OF APPROVAL

DATE OF ADOPTION

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
(Stroke inapplicable title)

BY: \_\_\_\_\_  
JOSEPH TURANTINO, JR.

TITLE: Chairman  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if Applicabl  
No Attorney General approval  
or Objection within 30 days  
after submission

[ ] Check if applicable  
Copy not approved  
Objections attached.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REAL ESTATE COMMISSION  
49 Pa. Code, Chapter 35  
SELLER PROPERTY DISCLOSURE STATEMENT



The State Real Estate Commission (Commission) proposes to add §§ 35.284a and 35.335a (relating to disclosures required by the Real Estate Seller Disclosure Law; and seller's property disclosure statement) to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

B. Statutory Authority

The amendments are proposed under the authority of section 7304(a) of the Real Estate Seller Disclosure Law (SDL) (68 Pa. C.S. § 7304(a)), and sections 404 and 604(a)(15.1) of the Real Estate Licensing and Registration Act (RELRA) (63 P.S. §§ 455.404 and 455.604(a)(15.1)).

C. Background and Purpose

Section 604(a)(15.1) of the RELRA (63 P.S. § 455.604(a)(15.1)) makes failing to provide a disclosure required by another law in connection with a real estate transaction a disciplinary offense. The SDL, which replaced the repealed Real Estate Seller Disclosure Act (SDA)(68 P.S. §§ 1021-1036), establishes disclosure duties on real estate licensees and sellers for certain types of residential real estate transfers and delineates specific aspects of the property that must be disclosed by the seller to a prospective buyer.

Specifically, section 7313(c) of the SDL (68 Pa. C.S. § 7313(a)) requires seller's agents to advise sellers of their responsibilities under section 7303 of the SDL (68 Pa. C.S. § 7303) and provide sellers with a property disclosure statement. Under the SDL, sellers are required to: disclose any known material defects to the buyer before signing an agreement of transfer by completing a property disclosure statement that meets or exceeds the requirements of section 7304 of the SDL (68 Pa. C.S. § 7304), deliver the completed property disclosure statement to buyers or buyers agent pursuant to section 7305 of the SDL (68 Pa. C.S. § 7305), and notify buyers of any inaccuracies in accordance with section 7307 of the SDL (68 Pa. C.S. § 7307).

Under section 7304(a) of the SDL, the Commission is required to promulgate a property disclosure statement that satisfies the requirements of subsection (b). Until that time, under subsection (c), the statement contained in the SDA satisfies the requirements of the SDL.

Having reviewed the SDA property disclosure statement for 5 years and determining that it satisfactorily reflected the requirements of the SDL, the Commission attempted to promulgate a final-form regulation, with proposed rulemaking omitted under Sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202), that included the SDA property disclosure statement and specific duties on

licensees as set forth in the SDL. On May 26, 2006, the Commission submitted the proposed-omitted final form regulation to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC).

After extensive discussions with the HPLC, on June 7, 2006, the Commission tolled the review of the regulation pursuant to section 745.5a(g)(1) of the Regulatory Review Act (RRA) (71 P.S. § 745.5a(g)(1)), to allow it to make revisions to the text of the annex recommended by the HPLC. Ultimately, after being requested by the HPLC to resubmit the regulation in proposed form, the Commission withdrew the regulation on June 13, 2006.

After that withdrawal, the Commission considered whether to further amend the previously submitted regulation and solicited comment from stakeholders. Following extended discussions at regularly scheduled meetings, the Commission voted to resubmit the regulation in proposed form. The proposed regulation is essentially the same disclosure form proposed in 2006. Two sections are rearranged to enhance clarity.

D. Description of Proposed Amendments

*§ 35.284a—Disclosures required by the Real Estate Seller Disclosure Law.*

Proposed subsection (a) tracks the duties on seller's agents under the SDL. Seller's agents must advise sellers of their duty to disclose known material defects with the property, provide sellers with a property disclosure statement that meets or exceeds the disclosures in proposed § 35.335a (relating to seller property disclosure statement), and deliver either the completed property disclosure statement or one marked "refused" to buyers or buyers agent prior to the execution of an agreement of sale.

Proposed subsection (b) tracks the duties on buyer's agents under the SDL. Buyer's agents must advise buyers that sellers have the duty to disclose known material defects with the property, and deliver either the completed property disclosure statement or one marked "refused" to the buyer prior to the execution of an agreement of sale.

Proposed subsection (c) conforms to section 7310 of the SDL (68 Pa. C.S. § 7310) by requiring seller's agents and buyer's agents to disclose, to the buyer in writing, material defects that the seller did not disclose and of which the licensee has actual knowledge. New subsection (d) provides that neither seller's agents nor buyer's agents are required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

While the SDL does not specifically state that seller may refuse to complete a property disclosure statement, section 7311 of the SDL (68 Pa. C.S. § 7311) addresses the penalty on a seller for failing to comply with the SDL. Because, in the Commission's experience it is aware that some sellers refuse to complete the property disclosure

statement, and because section 7311 specifically states that a residential real estate transaction will not be invalidated solely because of a failure to comply with the SDL, the Commission added refusal language to both subsections (a) and (b) to provide guidance to licensees.

*§ 35.335—Seller's property disclosure statement.*

Proposed § 35.335a sets forth the Commission's property disclosure statement. Its language is identical to the property disclosure statement previously set forth in the SDA. The Commission believes that this property disclosure statement meets the requirements of section 7304(b) of the SDL (68 Pa. C.S. § 7304(b)). Further, because section 7304(a) permits sellers to provide a disclosure statement that exceeds the requirements of section 7304(b), and in the Commission's experience, licensees generally provided a more comprehensive disclosure, the language previously set forth in the SDA suffices as a minimum requirement.

E. Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards, associations, real estate education providers and licensees to preliminarily review and comment on the Commission's draft regulatory proposal: Pennsylvania Association of Realtors, Realtors Educational Institute, Institute of Real Estate Studies, Polley Associates, Pennsylvania Cemetery & Funeral Association, Pennsylvania Bar Association, Allegheny Highland Association, Greater Allegheny-Kiski Area Board, Allegheny Valley Board, Beaver County Association, Bradford-Sullivan County Association, Bucks County Board, Butler County Association, Cambria-Somerset Association, Carbon County Association, Carlisle Association, Central Montgomery County Association, Central Susquehanna Valley Board, Central Westmoreland Board, Centre County Association, Chester County Association, Clearfield-Jefferson Association, Delaware Valley Realtors Association, East Montgomery County Association, Elk-Cameron County Board, Greater Erie Board, Fayette County Board; Franklin County Association, Greenville Area Board, Hanover-Adams County Association, Greater Harrisburg Association, Greater Hazleton Association, Huntingdon County Board, Indiana County Board, Lancaster County Association, Lawrence County Board, Lebanon County Association, Lehigh Valley Association, McKean County Association, Greater Meadville Board, Greater Mercer County Board, Mifflin-Juniata County Board, Mon Yough Association, Monongahela Valley Board, Greater Philadelphia Association, North Central Penn Board, Pike/Wayne Association, Pocono Mountains Association, Reading-Berks Association, Realtors Association of Metropolitan Pittsburgh, Schuylkill County Board, Greater Scranton Association, Tri-State Commercial and Industrial Association, Warren County Board, Washington-Greene Association, West Branch Valley Association, Westmoreland West Association, Greater Wilkes-Barre Association, York County Association, the Pennsylvania Federation of Housing Counselors and Agencies, and the Real Estate Consumer Council. The Commission considered comments submitted to it in drafting the proposal.

F. Fiscal Impact and Paperwork Requirements

The amendment should have no fiscal impact on, or create additional paperwork for, the regulated community or the political subdivisions of the Commonwealth. Real estate licensees have been providing property disclosure statements to sellers and buyers of applicable residential real estate since the enactment of the SDA. This proposal does not alter that requirement.

G. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 21, 2010, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed amendments to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649 or [jschulder@state.pa.us](mailto:jschulder@state.pa.us) within 30 days of publication of this proposed rulemaking. Please reference No. 16A-5618 (Seller Property Disclosure Statement), when submitting comments.

Joseph Tarantino, Jr., Chairman

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**  
**PART I. DEPARTMENT OF STATE**  
**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**  
**CHAPTER 35. STATE REAL ESTATE COMMISSION**

**Subchapter E. STANDARDS OF CONDUCT AND PRACTICE**

**GENERAL ETHICAL RESPONSIBILITIES**

\* \* \* \* \*

**§ 35. 284a. Disclosures required by the Real Estate Seller Disclosure Law.**

(a) Seller's agents shall:

(1) Advise sellers of their duty to disclose any known material defects with the property by completing a property disclosure statement that satisfies the requirements of section 7304 of the Real Estate Seller Disclosure Law (68 Pa.C.S.A. § 7304).

(2) Provide sellers with a property disclosure statement that meets or exceeds the disclosures set forth in § 35.335a (relating to seller property disclosure statement).

(3) Deliver the completed property disclosure statement or the property disclosure statement marked "refused" to the buyer or buyer's agent prior to the execution of an agreement of sale.

(b) Buyer's agents shall:

(1) Advise buyers that sellers have a duty to provide a completed property disclosure statement.

(2) Deliver the completed property disclosure statement or the property disclosure statement marked "refused" to the buyer prior to the execution of an agreement of sale.

(c) Both seller's agents and buyer's agents (licensees) are required to disclose, to the buyer in writing, all material defects that are not otherwise disclosed and of which the licensee has actual knowledge.

(d) Neither seller's agents nor buyer's agents are required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

\* \* \* \* \*

**REAL ESTATE DOCUMENTS**

**§ 35. 335a. Seller property disclosure statement.**

The seller's property disclosure statement shall, at a minimum, contain the following disclosures:

**Seller's Property Disclosure Statement**

Property address:.....

Seller:.....

A seller must disclose to a buyer all known material defects about property being sold that are not readily observable. This disclosure statement is designed to assist the seller in complying with disclosure requirements and to assist the buyer in evaluating the property being considered.

This statement discloses the seller's knowledge of the condition of the property as of the date signed by the seller and is not a substitute for any inspections or warranties that the buyer may wish to obtain. This statement is not a warranty of any kind by the seller or a warranty or representation by any listing real estate broker, any selling real estate broker or their agents. The buyer is encouraged to address concerns about the condition of the property that may not be included in this statement. This statement does

not relieve the seller of the obligation to disclose a material defect that may not be addressed on this form.

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land. The fact that a structural element, system or subsystem is near, at or beyond the end of its normal useful life is not by itself a material defect.

(1) Seller's expertise. The seller does not possess expertise in contracting, engineering, architecture or other areas related to the construction and condition of the property and its improvements, except as follows:.....

(2) Occupancy. Do you, the seller, currently occupy this property?.....yes .....no  
If "no," when did you last occupy the property?.....

(3) Roof.

(i) Date roof was installed:.....

Documented?.....yes .....no .....unknown

(ii) Has the roof been replaced or repaired during your ownership?  
.....yes .....no

If "yes," were the existing shingles removed? .....yes .....no..... unknown

(iii) Has the roof ever leaked during your ownership? .....yes .....no

(iv) Do you know of any problems with the roof, gutters or downspouts?  
.....yes .....no

Explain any "yes" answers that you give in this section:.....

.....  
.....  
**(4) Basements and crawl spaces (Complete only if applicable).**

(i) Does the property have a sump pump? ..... yes .....no .....unknown

(ii) Are you aware of any water leakage, accumulation or dampness within the  
basement or crawl space? .....yes .....no

If "yes," describe in detail:.....  
.....

(iii) Do you know of any repairs or other attempts to control any water or  
dampness problem in the basement or crawl space? ..... yes .....no

If "yes," describe the location, extent, date and name of the person who did the  
repair or control effort:.....  
.....

**(5) Termites/wood destroying insects, dry rot, pests.**

(i) Are you aware of any termites/wood destroying insects, dry rot or pests  
affecting the property? .....yes .....no

(ii) Are you aware of any damage to the property caused by termites/wood  
destroying insects, dry rot or pests? .....yes .....no

(iii) Is your property currently under contract by a licensed pest control  
company? .....yes .....no

(iv) Are you aware of any termite/pest control reports or treatments for the  
property in the last five years? .....yes .....no

Explain any "yes" answers that you give in this section:.....



.....  
.....

**(6) Structural items.**

(i) Are you aware of any past or present water leakage in the house or other structures? .....yes .....no

(ii) Are you aware of any past or present movement, shifting, deterioration or other problems with walls, foundations or other structural components? .....yes .....no

(iii) Are you aware of any past or present problems with driveways, walkways, patios or retaining walls on the property? .....yes .....no

Explain any "yes" answers that you give in this section:.....  
.....

When explaining efforts to control or repair, please describe the location and extent of the problem and the date and person by whom the work was done, if known:  
.....  
.....

**(7) Additions/remodeling.** Have you made any additions, structural changes or other alterations to the property? .....yes .....no

If "yes," please describe:.....  
.....

**(8) Water and sewage.**

(i) What is the source of your drinking water?  
.....public .....community system .....well on property ..... other

If "other," please explain:.....

.....

(ii) If your drinking water source is not public:

When was your water last tested?.....

What was the result of the test?.....

Is the pumping system in working order? .....yes .....no

If "no," please explain:.....

.....

(iii) Do you have a softener, filter or other purification system?

.....yes .....no

If "yes," is the system: .....leased .....owned

(iv) What is the type of sewage system? .....public sewer .....private sewer

.....septic tank .....cesspool .....other

If "other," please explain:.....

(v) Is there a sewage pump?.....yes .....no

If "yes," is it in working order? .....yes .....no

(vi) If applicable, when was the septic system or cesspool last serviced?

.....

(vii) Is either the water or sewage system shared? .....yes ..... no

If "yes," please explain:.....

(viii) Are you aware of any leaks, backups or other problems relating to any of the plumbing, water and sewage-related items? .....yes .....no

If "yes," please explain:.....

**(9) Plumbing system.**

(i) Type of plumbing: .....copper .....galvanized .....lead .....PVC  
..... unknown .....other

If "other," please explain:.....

(ii) Are you aware of any problems with any of your plumbing fixtures  
(including, but not limited to: kitchen, laundry or bathroom fixtures, wet bars, hot water  
heater, etc.)? .....yes .....no

If "yes," please explain:.....

**(10) Heating and air conditioning.**

(i) Type of air conditioning: ..... central electric ..... central gas  
..... wall ..... none

(ii) List any areas of the house that are not air conditioned:  
.....

(iii) Type of heating: ..... electric..... fuel oil ..... natural gas ..... other

If "other," please explain:.....

(iv) List any areas of the house that are not heated: .....  
.....

(v) Type of water heating:..... electric ... .. gas ..... solar ..... other

If "other," please explain:.....

(vi) Are you aware of any underground fuel tanks on the property?  
.....yes .....no

If "yes," please describe:.....

Are you aware of any problems with any item in this section? ..... yes ..... no

If "yes," please explain:.....

**(11) Electrical system.** Are you aware of any problems or repairs needed in the electrical system? .....yes .....no

If "yes," please explain:.....  
.....

**(12) Equipment and appliances.**

The following items included in the sale are in need of repair or replacement: .....  
.....  
.....

**(13) Land (soils, drainage and boundaries).**

(i) Are you aware of any fill or expansive soil on the property? .....yes  
.....no

(ii) Are you aware of any sliding, settling, earth movement, upheaval, subsidence or earth stability problems that have occurred on or that affect the property? .....yes .....no

NOTE TO BUYER: Some properties may be subject to mine subsidence damage. Maps of the counties and mines where mine subsidence damage may occur and mine subsidence insurance are available through:

Department of Environmental Protection

Mine Subsidence Insurance Fund

25 Technology Drive, California Technology Park

Coal Center, PA 15413

(in PA) (800) 922-1678

(outside PA) (724) 769-1100

(iii) Are you aware of any existing or proposed mining, strip mining or any other excavations that might affect this property? .....yes .....no

(iv) To your knowledge, is this property or part of it located in a flood zone or wetlands area? .....yes .....no

(v) Do you know of any past or present drainage or flooding problems affecting the property? .....yes .....no

(vi) Do you know of any encroachments, boundary line disputes or easements? .....yes .....no

NOTE TO BUYER: Most properties have easements running across them for utility services and other reasons. In many cases, the easements do not restrict the ordinary use of the property, and the seller may not be readily aware of them. Buyers may wish to determine the existence of easements and restrictions by examining the property and ordering an abstract of title or searching the records in the Office of the Recorder of Deeds for the county before entering into an agreement of sale.

(vii) Are you aware of any shared or common areas (for example, driveways, bridges, docks, walls, etc.) or maintenance agreements? .....yes .....no

Explain any "yes" answers that you give in this section:.....  
.....  
.....

(14) Hazardous substances.

(i) Are you aware of any underground tanks or hazardous substances present on the property (structure or soil), including, but not limited to, asbestos, polychlorinated byphenyls (PCBs), radon, lead paint, urea-formaldehyde foam insulation (UFFI), etc?  
.....yes .....no

(ii) To your knowledge, has the property been tested for any hazardous substances? .....yes .....no

(iii) Do you know of any other environmental concerns that might impact upon the property? .....yes .....no

Explain any "yes" answers that you give in this section:.....  
.....

**(15) Condominiums and other homeowners associations (complete only if applicable).**

Type: .....condominium\* .....cooperative .....homeowners association .....other  
If "other," please explain:.....  
.....

**NOTICE REGARDING CONDOMINIUMS AND COOPERATIVES:**

According to section 3407 of the Uniform Condominium Act (68 Pa. C.S. § 3407) (relating to resales of units) and 68 Pa. C.S. § 4409 (relating to resales of cooperative interests), a buyer of a resale unit in a condominium or cooperative must receive a certificate of resale issued by the association in the condominium or cooperative. The buyer will have the option of canceling the agreement with return of all deposit moneys until the certificate has been provided to the buyer and for 5 days thereafter or until conveyance, whichever occurs first.

**(16) Miscellaneous.**

(i) Are you aware of any existing or threatened legal action affecting the property? .....yes .....no

(ii) Do you know of any violations of Federal, State or local laws or regulations relating to this property? .....yes .....no

(iii) Are you aware of any public improvement, condominium or homeowner association assessments against the property that remain unpaid or of any violations of zoning, housing, building safety or fire ordinances that remain uncorrected? .....yes .....no

(iv) Are you aware of any judgment, encumbrance, lien (for example, comaker or equity loan) or other debt against this property that cannot be satisfied by the proceeds of this sale? .....yes .....no

(v) Are you aware of any reason, including a defect in title, that would prevent you from giving a warranty deed or conveying title to the property? .....yes .....no

(vi) Are you aware of any material defects to the property, dwelling or fixtures which are not disclosed elsewhere on this form? .....yes .....no

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land.

Explain any "yes" answers that you give in this section:.....  
.....

The undersigned seller represents that the information set forth in this disclosure statement is accurate and complete to the best of the seller's knowledge. The seller hereby authorizes any agent for the seller to provide this information to prospective buyers of the property and to other real estate agents. The seller alone is responsible for the accuracy of the information contained in this statement. The seller shall cause the buyer to be notified in writing of any information supplied on this form that is rendered inaccurate by a change in the condition of the property following the completion of this form.

SELLER.....DATE.....

SELLER.....DATE.....

SELLER.....DATE.....

EXECUTOR, ADMINISTRATOR, TRUSTEE

The undersigned has never occupied the property and lacks the personal knowledge necessary to complete this disclosure statement.

.....  
.....DATE.....

RECEIPT AND ACKNOWLEDGMENT BY BUYER

The undersigned buyer acknowledges receipt of this disclosure statement. The buyer acknowledges that this statement is not a warranty and that, unless stated otherwise in the sales contract, the buyer is purchasing this property in its present condition. It is the buyer's responsibility to satisfy himself or herself as to the condition of the property. The buyer may request that the property be inspected, at the buyer's expense and by qualified professionals, to determine the condition of the structure or its components.



BUYER.....DATE.....

BUYER.....DATE.....

BUYER.....DATE.....

\* \* \* \* \*



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REAL ESTATE COMMISSION  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-3658

April 21, 2010

The Honorable Arthur Coccodrilli, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Real Estate Commission  
16A-5618: Seller Property Disclosure Statement

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Real Estate Commission pertaining to Seller Property Disclosure Statement.

The Commission will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Tarantino, Jr.", written over a large, stylized flourish.

Joseph Tarantino, Jr., Chairman  
State Real Estate Commission

JT/JPS:bac

Enclosure

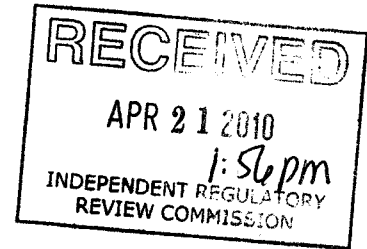
cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Steven V. Turner, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Judith Pachter Schulder, Counsel  
State Real Estate Commission  
State Real Estate Commission

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 16A-5618  
SUBJECT: SELLER PROPERTY DISCLOSURE STATEMENT  
AGENCY: DEPARTMENT OF STATE  
STATE REAL ESTATE COMMISSION

TYPE OF REGULATION

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions                      b. Without Revisions



FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/21/10	<i>Blaine Nichols</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
4/21/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
4/21/10	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only)
4/21/10	<i>Maura Garas</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

April 13, 2010