

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <p>2016 OCT 11 AM 10:59</p> <p>IRRC</p> <p>RECEIVED</p>	
<p>(1) Agency <b>Department of State, Bureau of Professional and Occupational Affairs, State Real Estate Commission</b></p>			
<p>(2) Agency Number: <b>16A</b> Identification Number: <b>16A-5623</b></p>		<p>IRRC Number: <b>3158</b></p>	
<p>(3) PA Code Cite:  <b>49 Pa. Code § 35.335a</b></p>			
<p>(4) Short Title: <b>Seller Property Disclosure Statement</b></p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):             Primary Contact: <b>Juan A. Ruiz, Counsel, State Real Estate Commission, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) <a href="mailto:jruiz@pa.gov">jruiz@pa.gov</a></b>             Secondary Contact: <b>Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) <a href="mailto:cymontgome@pa.gov">cymontgome@pa.gov</a></b> </p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation  <input type="checkbox"/> Final Regulation  <input checked="" type="checkbox"/> <b>Final Omitted Regulation</b></p>		<p><input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>This final omitted rulemaking amends the Seller Property Disclosure Statement to include sinkholes and storm water facilities to the list of subjects requiring disclosure on the property disclosure statement.</b></p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p><b>The statutory authority for the final rulemaking comes under section 404 of the Real Estate Licensing and Registration Act, 63 P.S. § 455.404. Section 7304 of the Real Estate Seller Disclosure Law, 68 Pa.C.S. § 7304, requires the State Real Estate Commission to promulgate a form of property disclosure statement that satisfies the requirements of the Real Estate Seller Disclosure Law. The Act of June 19, 2015 (P.L. 23, No. 6) (Act 6 of 2015) requires promulgation of a final rulemaking (with proposed omitted) that amends the property disclosure statement.</b></p>			

(9) 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. Section 7304 of the Real Estate Seller Disclosure Law, 68 Pa.C.S. § 7304, requires the State Real Estate Commission to promulgate a form of property disclosure statement that satisfies the requirements of the Real Estate Seller Disclosure Law. Section 3 of Act 6 of 2015 requires promulgation of a final rulemaking (with proposed omitted) that amends the property disclosure statement.**

(10) 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 purpose of the regulation is to allow buyers of residential property to know whether there are sinkholes on the property and whether the owner of the property would be responsible for the maintenance of any storm water facilities that are located on or near the property. Buyers of residential real estate will benefit the most from these changes to the property disclosure statement.**

(11) 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.

**Not applicable.**

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

**In looking at Pennsylvania's bordering states, Maryland, West Virginia, New York and Ohio all have seller disclosure laws that require sellers to fill out a seller property disclosure statement. In looking at those statutes, none of those states require disclosures of a sinkhole or a storm water facility. New Jersey does not require sellers to fill out a seller property disclosure statement, but does require sellers to disclose any latent material defects to the property.**

**These additional requirements to the seller disclosure statement will not affect Pennsylvania's ability to compete with other states.**

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

**The final rulemaking does not affect existing or proposed regulations.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**In compliance with Executive Order 1996-1, the Commission extended an invitation to a number of education providers, boards, and associations to preliminarily review and comment on the Commission's draft regulatory proposal. The Commission received comments from the Pennsylvania Association of Realtors, the Lancaster County Association of Realtors, and Berkshire Hathaway HomeServices. All three commented that they believed that the proposed revisions were in compliance with Act 6 of 2015, and none of the comments recommended any revisions.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**Sellers of residential real estate are affected. Sellers will now need to disclose the existence of sinkholes and storm water facilities on their property and whether the sellers are responsible for management of the storm water facility, as applicable.**

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**Any seller of residential real estate property that is required to fill out a seller property disclosure statement in accordance with the Real Estate Seller Disclosure Law. It is impossible to approximate the number of sellers that will be required to comply.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**By requiring these extra disclosures, homebuyers will have more information available to them when deciding on purchasing a home. The increased burden of having to disclose the existence of sink holes and storm water facilities on sellers should be minimal.**

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

**There are no known costs or adverse effects to consumers. This is a benefit to homebuyers because they will have more information about the property.**

(19) 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.

**There is no cost to the regulated community associated with implementation of this regulation. Any group or association that may have printed their own property disclosure statement might have a cost associated with reprinting and revising their statement to comply with these amendments. However, that cost should be minimal due to the minimal changes to the property disclosure statement.**

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

**The amendments will not have a fiscal impact on local governments.**

(21) Provide a specific estimate of the costs and/or savings to the **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 amendments will not have a fiscal impact on state government.**

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

**As stated above, there is no fiscal impact for the regulated community, local governments, or state government.**

(23) 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.

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

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY 13-14</b>	<b>FY 14-15</b>	<b>FY 15-16 PROJECTED</b>	<b>Current FY BUDGETED</b>
<b>State Real Estate Commission</b>	<b>\$3,084,262.76</b>	<b>\$2,988,360.99</b>	<b>\$3,426,000.00</b>	<b>\$3,371,000.00</b>

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**There is no adverse impact on small business.**

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

**The Commission has perceived no special needs of any persons for whom special accommodations should be made to implement the amendments to the seller disclosure statement.**

(26) 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.

**No alternative regulatory provisions were considered because the Commission was directed under Act 6 of 2015 to make the changes to the seller property disclosure statement.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**This regulation will have no adverse impact on small business.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**Not applicable.**

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

- |   |                  |
|---|------------------|
| A. The date by which the agency must receive public comments:                               | N/A              |
| 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 2016        |
| D. The expected effective date of the final-form regulation:                                | upon publication |
| E. The date by which compliance with the final-form regulation will be required:            | upon publication |
| F. The date by which required permits, licenses or other approvals must be obtained:        | N/A              |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**The Commission continually monitors the effectiveness of its regulations on at least an annual basis. All discussions regarding regulations are held during public meetings of the Commission.**

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**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

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(Pursuant to Commonwealth Documents Law)

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Copy below is hereby approved as to  
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Copy below is hereby certified to be a true and correct  
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to form and legality.  
Executive or Independent  
Agencies.

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

STATE REAL ESTATE COMMISSION

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5623

DATE OF ADOPTION: \_\_\_\_\_

BY: Joseph J. McGettigan  
Joseph J. McGettigan

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

BY: Marisa H. Z. Lehn

OCT 03 2016

DATE OF APPROVAL

Deputy General Counsel,  
~~Chief Counsel,~~  
~~Independent Agency.~~  
(Strike inapplicable title)

- ☐ Check if applicable  
Copy not approved.  
Objections attached.
- ☐ Check if applicable.  
No Attorney General approval  
or objection within 30 day  
after submission.

FINAL RULEMAKING/PROPOSED OMITTED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE REAL ESTATE COMMISSION

49 Pa. CODE § 35.335a

SELLER PROPERTY DISCLOSURE STATEMENT



The State Real Estate Commission (Commission) hereby amends § 35.335a (relating to seller property disclosure statement) to read as set forth in Annex A.

### *Background and Purpose*

Section 7304 of the Real Estate Seller Disclosure Law (68 Pa.C.S. § 7304) requires the Commission to promulgate a form of property disclosure statement that satisfies the requirements of the Real Estate Seller Disclosure Law. Section 7304(b) of the Real Estate Seller Disclosure Law lists the subjects that call for disclosures on the property disclosure statement. The act of June 19, 2015 (P.L. 23, No. 6) (Act 6 of 2015) amended the Real Estate Seller Disclosure Law to add sinkholes and storm water facilities to the list of subjects requiring disclosure on the property disclosure statement.

### *Omission of Proposed Rulemaking*

Under section 204 of the Commonwealth Documents Law (CDL) (45 P.S. § 1204) the Commission is authorized to omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the Commission finds that the specified procedures are impracticable, unnecessary or contrary to the public interest. The Commission has determined that publication of proposed rulemaking is unnecessary under the circumstances because section 3 of Act 6 of 2015 requires the Commission to promulgate the revised property disclosure statement as a final-omitted regulation under the Regulatory Review Act, with notice of proposed rulemaking omitted under section 204 of the CDL.

### *Description of the Amendment*

Act 6 of 2015 amended the Real Estate Seller Disclosure Law to add sinkholes and storm water facilities into the list of subjects requiring disclosure on the property disclosure statement. In amending the property disclosure statement, the Commission has included sinkholes in section 13 of the property disclosure statement which deals with soils, drainage, and boundaries. The Commission also added a new section that deals specifically with storm water facilities.

### *Statutory Authority*

Section 404 of the Real Estate Licensing and Registration Act (RELRA) (63 P.S. § 455.404) authorizes the Commission to promulgate and adopt rules and regulations not inconsistent with law as it deems necessary for the performance of its duties and the proper administration of the RELRA. Section 7304 of the Real Estate Seller Disclosure Law (68 Pa.C.S. § 7304) requires the Commission to promulgate a form of property disclosure statement that satisfies the requirements of the Real Estate Seller Disclosure Law. Section 3 of Act 6 of 2015 requires promulgation of a final rulemaking (with proposed omitted) that amends the property

disclosure statement.

### *Fiscal Impact and Paperwork Requirements*

The amendments will not have a fiscal impact on, or create additional paperwork for the regulated community, the Commonwealth or its political subdivisions. Any group or association that may have printed their own property disclosure statement might have a cost associated with reprinting and revising their statement to comply with these amendments. However, that cost should be minimal due to the minimal changes to the property disclosure statement.

### *Regulatory Review*

Under Section 5.1(c) of the Regulatory Review Act (act) (71 P.S. §745.5a(c)), on October 11, 2016, the Commission submitted copies of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee, and the House Professional Licensure Committee. On the same date, the Commission submitted a copy of the regulation to the Office of Attorney General under the Commonwealth Attorneys Act (71 P.S. §§732-101 – 732-506)

Under sections 5.1(e) and (j.2) of the act (71 P.S. §745.5a(e) and (j.2)), the amendments are deemed approved by the House Committee on November 16, 2016, deemed approved by the Senate Committee on November 16, 2016, and approved by IRRC on November 17, 2016.

### *Additional Information*

For additional information about the amendments, submit inquiries to Krista Linsench, State Real Estate Commission, P.O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3658, RA-REALESTATE@pa.gov.

### *Findings*

The Commission finds that:

(1) Public notice of the Commission's intention to amend its regulations under the procedures in sections 201 and 202 of the Commonwealth Documents Law (CDL) (45 P.S. §§ 1201 and 1202) has been omitted under section 204 of the CDL (45 P.S. § 1204) because public comment is unnecessary in that the amendments adopted by this order merely implement amendments to the Real Estate Seller Disclosure Law, and section 3 of Act 6 of 2015 directs the Commission to promulgate final regulations (with proposed omitted).

(2) The amendment of the Commission's regulations in the manner provided in this order is necessary and appropriate for the administration of the Real Estate Seller Disclosure Law.

*Order*

The Commission, acting under its authorizing statute, orders that:

(a) The regulations of the Commission hereby are amended at 49 Pa. Code § 35.335a to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Commission shall submit this order and Annex A to the Independent Regulatory Review Commission, the Senate Consumer Protection and Professional Licensure Committee, and the House Professional Licensure Committee as required by law.

(d) The Commission shall certify this order and Annex and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Joseph J. McGettigan  
Chairperson

**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**

\* \* \* \* \*

**REAL ESTATE DOCUMENTS**

§ 35.335a. Seller property disclosure statement.

The seller's property disclosure statement must, 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: \_\_\_\_\_

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(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: \_\_\_\_\_

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(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 and sinkholes).*

(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 the Department of Environmental Protection, Mine Subsidence Insurance Fund.

(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

(viii) Are you aware of any sinkholes that have developed on the property? 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) Storm water facilities.

(i) Do you know the location and condition of any basin, pond, ditch, drain, swale,  
culvert, pipe or other manmade feature of land that temporarily or permanently conveys or  
manages storm water for the property?    yes    no    unknown

(ii) If the answer to (i) is yes, is the owner of this property responsible for the ongoing  
maintenance of the storm water facility?    yes    no    unknown

Explain any “yes” answers that you give in this section:

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(17) 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

October 11, 2016

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101


Re: Final Regulation  
State Real Estate Commission  
16A-5623

Dear Chairman Bedwick:

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

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

Sincerely,

  
Joseph J. McGettigan, Chairperson  
State Real Estate Commission

JJM/jar:rs

Enclosure

cc: Ian J. Harlow, Commissioner of  
Professional and Occupational Affairs  
Leigh Chapman, Director of Policy, Department of State  
Timothy Gates, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Juan A. Ruiz, Counsel  
State Real Estate Commission  
State Real Estate Commission

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 16A-5623

SUBJECT: SELLER PROPERTY DISCLOSURE STATEMENT

AGENCY: DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

TYPE OF REGULATION

Proposed Regulation

Final Regulation

X Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Re-Delivery of Disapproved Regulation  
a. With Revisions b. Without Revisions

2016 OCT 11 AM 10:59

RECEIVED  
IRRC

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10/11/16	A. Kelly	MAJORITY CHAIR Julie Harhart
10/11/16	K. Hodge	MINORITY CHAIR Harry A. Readshaw
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/11/16	Tammym Blanch	MAJORITY CHAIR Robt. M. Tomlinson
10/11/16	Lisa K. C.	MINORITY CHAIR Lisa M. Boscola
10/11/16	K. Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
10-11-16	Jeffrey...	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 3, 2016