

## **Seller's Residential Real Estate Sales Disclosure – State Form 46234**

I.C. 32-21-5-1 generally requires sellers (including FSBOs) of 1-4 residential units of property to provide a disclosure form to buyers covering known, significant defects in the major systems of a home. It applies to transfers by sale, exchange, installment sales contract, or lease with option to buy residential real estate. This form is not applicable to un-improved property (land).

Sellers should complete the form to the best of “their current actual knowledge”. Each question should be answered individually.

Since the law does not exempt an investor who has never lived in the home, the Sales Disclosure Form IS required in such a situation. Further, even though the seller has never lived in the home, seller does have knowledge regarding the home. The seller must answer the questions to the best of his/her ability, even though the seller may need to check “do not know” on some of the questions. Striking a line through multiple answers or across the entire form is not acceptable.

If a buyer receives a disclosure form or an amended form after offer acceptance which discloses a defect, such buyer has two business days to rescind the offer and receive any deposits made.

REALTORS® should not attempt to complete the disclosure form for the seller. In other words, REALTORS® should not give a seller the opportunity to drag them into court for non-disclosure of a defect or an allegation of misrepresentation.

Exempt from SRRES D:

- 1) transfers ordered by a court (i.e. divorce, bankruptcy, condemnation, etc.)
- 2) transfers by a mortgagee who has acquired the real estate through foreclosure proceedings or by a deed in lieu of foreclosure
- 3) transfers by a fiduciary in the course of an administration of an estate, guardianship, conservatorship, or trust
- 4) transfers from one co-owner to another co-owner (i.e. by way of Quitclaim Deed)
- 5) transfers to a family member
- 6) transfers due to the owner's failure to pay taxes (i.e. tax sale properties)
- 7) transfers to or from any governmental entity
- 8) transfers involving new home sales
- 9) transfers to a living trust.

Links:

[Indiana Code 32-21-5 \(2017\)](#)