|  |  |  |
| --- | --- | --- |
| Slide 1 |  | The Residential Property Disclosure Act has a new, affirmative disclosure starting on January 1, 2022. Today we’re going to talk about what that new requirement is & how to work with your clients on it. |
| Slide 2 |  | Starting on January 1, sellers with actual knowledge that the property is a repetitive risk loss structure must disclose that to the buyer.  Note that this requires actual knowledge by the seller. The law does not require the seller to do any research, so if the seller does not know if the property is a “repetitive risk loss structure”, then they do not have to do research or make the disclosure |
| Slide 3 |  | The law defines a repetitive risk loss to be:  “Repetitive risk loss" means that two or more claims of more than $1,000 were paid by the National Flood Insurance Program within any rolling 10-year period, since 1978. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website. |
| Slide 4 |  | The Residential Property Disclosure Act applies to any transfers by sale, exchange, installment land sales contract, or lease with option to buy residential real property that has one to four dwelling units. This means that if you are listing land with no house, the seller does not have to disclose.  Also, remember that this is a SELLER disclosure, not an agent disclosure.  **§ 55.1-701. Applicability.**  The provisions of this chapter apply only with respect to transfers by sale, exchange, installment land sales contract, or lease with option to buy of residential real property consisting of not less than one nor more than four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or salesperson. |
| Slide 5 |  | There are 9 exemptions to the Residential Property Disclosure Act:  1. Transfers pursuant to court order including transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale or by a deed in lieu of a foreclosure, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a judgment for specific performance. Also, transfers by an assignment for the benefit of creditors pursuant to Chapter 18.1 (§ 8.01-525.1 et seq.) of Title 8.01 and transfers pursuant to escheats pursuant to Chapter 24 (§ 55.1-2400 et seq.).  2. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale or by a deed in lieu of foreclosure, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in lieu of foreclosure.  3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.  4. Transfers from one or more co-owners solely to one or more other co-owners.  5. Transfers made solely to any combination of a spouse or one or more persons in the lineal line of consanguinity of one or more of the transferors.  6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation pursuant to the provisions of Title 20.  7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.  8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.  9. Transfers involving the first sale of a dwelling, provided that this exemption shall not apply to the disclosures required by § 55.1-704.  **§ 55.1-702. Exemptions.** |
| Slide 6 |  | Sellers that need to make this disclosure must do so on the form provided by the Real Estate Board, the same as with septic waivers, military air installations, properties previously used to manufacture methamphetamine, building code enforcement action/zoning ordinance violation, and privately owned stormwater management facilities. |
| Slide 7 |  | OK, here’s an example for us to look at.  For this property, we’ve had three payouts. The first payout was in 1975, the second in 1980 & the third in 1991. While there is less than 10 years between the first two payouts, the first one is before 1978, so it doesn’t count. **[click for animation].** When we look at the second two payouts, they are more than 10 years apart, so the seller doesn’t have to make a disclosure, even though both payouts were greater than $1,000. |
| Slide 8 |  | In our second example we’ve had four payouts.  The first one was in 1984, which is the year we start worrying about payouts for this disclosure. It’s also for more than $1,000, which means it counts for the disclosure. Now we need to look and see if there’s a second payout of more than $1,000 within 10 years.  The second payout is for less than $1,000, so it doesn’t matter that it’s within the 10 year period. **[click for animation]** So as of right now we haven’ triggered the disclosure requirement. We need to keep looking to see if there’s another payout of $1,000 in that 10 year period.  The third payout IS more than $1,000 **[click for animation]**, but it’s 30 years since the last payout of more than $1,000, so again, that doesn’t trigger the disclosure based on the 1984 payout. **[click for animation]**  Now, we’re looking to see if there’s a payout of more than $1,000 after 2014. We do have another payout in 2019, but since it’s for less than $1,000 it doesn’t count. **[click for animation].**  In this example, we do not have 2 or more payouts of $1,000 or more within any 10 year period. |
| Slide 9 |  | Let’s tweak our last example just a bit. The dates are all the same, but if we change the 2019 payout to $1,500, we now DO have 2 or more payouts of $1,000 or more within any 10-year period. **[click for animation]** This means the seller would have to disclose this information to the buyer. |
| Slide 10 |  |  |