

FLORIDA REAL ESTATE DISCLOSURES GUIDE

Essential Disclosure Requirements for Florida Real Estate Professionals

An Educational Guide to Understanding Florida's Disclosure Requirements

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BROKERAGE RELATIONSHIP DISCLOSURES

When Required

TIMING: Must be disclosed before, or at the time of, entering into a listing agreement or an agreement for representation, or before showing property - whichever occurs first.

Types of Relationships

1. SINGLE AGENT

- **Highest level of representation**
- Owes fiduciary duties including loyalty and confidentiality
- Must disclose all known material facts
- Cannot represent both buyer and seller in same transaction

Key Forms:

- Single Agent Disclosure (BRD-6sa)
- Consent to Transition (if changing relationships)

2. TRANSACTION BROKER

- **Limited representation**
- Provides assistance without fiduciary duties
- Limited confidentiality (can be waived)
- Can work with both parties in same transaction

Key Forms:

- Transaction Broker Disclosure (BRD-7tnx)
- Consent to Transition from Single Agent

3. NO BROKERAGE RELATIONSHIP

- **No representation**
- Customer receives limited statutory duties only
- Must still disclose material facts and deal honestly

Key Forms:

- No Brokerage Relationship Disclosure (BRD-3nbr)

Important Notes

- **Default relationship:** Transaction Broker (unless otherwise established)
 - **Written disclosure required** with signatures
 - **Changes must be disclosed** in writing to all parties
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PROPERTY CONDITION DISCLOSURES

Seller's Property Disclosure Requirements

For Residential Properties (SPDR-4x)

Required Information:

- Known defects and material facts
- Water damage or flooding history
- Structural issues
- Systems problems (HVAC, electrical, plumbing)
- Environmental concerns
- HOA information

- Special assessments

For Condominium Properties (SPDC-2)

Additional Requirements:

- Association financial condition
- Pending litigation
- Special assessments
- Building condition issues
- Unit modifications
- Right of first refusal

Buyer's Walk-Through Inspection

- Final inspection before closing
 - Verify property condition
 - Confirm agreed-upon repairs completed
 - Document any new issues
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ENVIRONMENTAL DISCLOSURES

Lead-Based Paint Disclosure (Required for Pre-1978 Properties)

Requirements:

- Federal law requires disclosure for homes built before 1978
- 10-day inspection period (unless waived)
- Provide EPA pamphlet "Protect Your Family from Lead in Your Home"
- Disclosure of known lead-based paint hazards

Flood Zone Disclosure

Information Required:

- Current FEMA flood zone designation
- Flood insurance requirements
- History of flooding on property
- Changes in flood zone status

Sinkhole Disclosure

Must Disclose:

- Known sinkhole activity on or affecting property
- Previous sinkhole repairs
- Insurance claims for sinkhole damage
- Available studies or reports

Other Environmental Disclosures

- **Mold inspection** addenda when applicable
 - **Radon gas** disclosure in certain areas
 - **Airport noise zones** when applicable
 - **Coastal Construction Control Line** for coastal properties
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FINANCIAL DISCLOSURES

Commission and Compensation

Commission Disclosure Statement (CDS-1)

Purpose: Informs parties about how real estate professionals are compensated

Compensation Agreements

- **Seller to Buyer's Broker Agreement** (CASB-1)
- **Seller's Broker to Buyer's Broker Agreement** (CABB-1)
- **Modification agreements** when terms change

FIRPTA (Foreign Investment in Real Property Tax Act)

Requirements:

- Applies when seller is foreign person/entity
- May require 15% withholding of gross sales price
- Exceptions for primary residence under \$300,000
- Seller must certify U.S. person status

Short Sale/Pre-Foreclosure Disclosures

Required when:

- Property value less than mortgage balance
 - Lender approval needed
 - Foreclosure proceedings pending or threatened
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FAIR HOUSING REQUIREMENTS**Fair Housing Notice**

Must be displayed prominently in all real estate offices

Equal Housing Opportunity**Requirements:**

- Non-discrimination in housing transactions
- Proper use of Equal Housing Opportunity logo
- Fair housing training for licensees

Protected Classes

- Race
 - Color
 - Religion
 - Sex
 - Handicap
 - Familial Status
 - National Origin
 - Sexual Orientation (Florida)
 - Gender Identity (Florida)
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TIMING REQUIREMENTS**Critical Disclosure Deadlines**

Disclosure Type	When Required
Brokerage Relationship	Before showing property or signing agreements
Property Condition	As soon as practical, updated if changes
Lead-Based Paint	Before contract (pre-1978 properties)
Flood Zone	Before contract execution
HOA Documents	Within specific timeframes per contract
Commission Terms	Before representation agreement

Update Requirements

- **Immediate notification** if material facts change
- **Written updates** for any new information
- **Buyer notification** of seller's updated disclosures

DISCLOSURE CHECKLIST

For Every Transaction

- ☐ Brokerage relationship disclosure completed and signed
- ☐ Property condition disclosure provided by seller
- ☐ Commission arrangements disclosed to all parties
- ☐ Wire fraud prevention notice provided

Property-Specific Requirements

- ☐ Lead-based paint disclosure (pre-1978 properties)
- ☐ Flood zone disclosure completed
- ☐ Sinkhole disclosure if applicable
- ☐ HOA disclosure for association properties
- ☐ Condominium documents provided (condo sales)

Special Situations

- ☐ FIRPTA disclosure (foreign sellers)
- ☐ Short sale addendum (underwater properties)
- ☐ Housing for older persons (age-restricted communities)
- ☐ Licensee personal interest disclosure (agent-owned property)

BEST PRACTICES

Documentation

- **Keep detailed records** of all disclosures provided
- **Obtain signatures** on all required forms
- **Use current forms** from Florida Realtors
- **Store documents** according to retention requirements

Communication

- **Explain significance** of disclosures to clients
- **Encourage questions** and provide clarification
- **Follow up** on incomplete or unclear information
- **Document conversations** about material facts

Risk Management

- **Never advise** clients to withhold material information
 - **Disclose everything** that could affect property value
 - **Seek legal counsel** when uncertain about requirements
 - **Use official forms** rather than creating your own
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CONSEQUENCES OF NON-DISCLOSURE

Legal Liability

- **Civil lawsuits** from undisclosed material facts
- **Rescission of contracts** for failure to disclose
- **Monetary damages** for buyer's losses
- **Attorney fees** and court costs

Professional Consequences

- **License suspension** or revocation
- **Administrative fines** from DBPR
- **Professional reputation** damage
- **E&O insurance** claims

Criminal Penalties

- **Fraud charges** for intentional concealment
 - **Misdemeanor charges** for some violations
 - **Federal violations** (lead paint, fair housing)
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RECENT CHANGES AND UPDATES

2024-2025 Form Updates

- New compensation disclosure requirements
- Updated buyer representation agreements
- Enhanced commission transparency rules
- Modified listing agreement terms

Legislative Changes

- Fair housing protections expanded
 - New environmental disclosure requirements
 - Updated condo/HOA disclosure rules
 - Enhanced wire fraud prevention requirements
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PROFESSIONAL RESOURCES

Forms and Updates

- **Florida Realtors:** www.floridarealtors.org
- **Local Board of Realtors:** Contact your local board
- **DBPR Real Estate Division:** www.myfloridalicense.com

Legal Resources

- **Florida Bar Real Estate Section:** www.floridabar.org
- **Real Estate Legal Counsel:** Consult qualified attorneys
- **Continuing Education:** Stay current with requirements

Training and Education

- **Florida Real Estate Commission:** www.frec.state.fl.us
- **Professional Development:** Regular disclosure training
- **Industry Publications:** Stay informed of changes

FREQUENTLY ASKED QUESTIONS

Q: What happens if I forget to provide a required disclosure?

A: Immediately provide the disclosure and document the situation. Consult legal counsel if necessary.

Q: Can I use forms from other states?

A: No. Use only Florida-approved forms that comply with state law.

Q: When should I update property disclosures?

A: Immediately when new material information becomes known.

Q: Are oral disclosures sufficient?

A: No. Florida law requires written disclosures with signatures for most requirements.

Q: Can buyers waive their right to disclosures?

A: Some disclosure periods can be waived, but the disclosures themselves are still required.

IMPORTANT DISCLAIMERS

Legal Disclaimer

This guide is for educational purposes only and does not constitute legal advice. Real estate professionals should:

- Consult with qualified legal counsel for specific situations
- Use current official forms from Florida Realtors
- Stay updated on changing laws and requirements
- Seek professional training on disclosure requirements

Form Currency

- Always use the most current versions of official forms
- Check for updates regularly
- Verify local board requirements
- Confirm special disclosure requirements by county

Professional Responsibility

Real estate licensees are responsible for:

- Understanding all applicable disclosure requirements
 - Ensuring compliance with federal, state, and local laws
 - Maintaining current knowledge through continuing education
 - Seeking assistance when uncertain about requirements
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CONTACT INFORMATION

For Questions About This Guide: Florida Renters Guide

Website: www.floridarentersguide.com

Email: [Contact Information]

For Official Forms and Legal Requirements: Florida Realtors

Phone: (407) 438-1400

Website: www.floridarealtors.org

For License and Regulatory Questions: Florida DBPR - Division of Real Estate

Phone: (850) 487-1395

Website: www.myfloridalicense.com

This educational guide was prepared to help Florida real estate professionals understand disclosure requirements. It does not replace official forms or legal counsel. Always use current official forms and consult with qualified professionals for specific situations.

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