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AB-1280 Fire hazard severity zones: disclosures. (2023-2024)

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Assembly Bill No. 1280

CHAPTER 99

An act to amend Section 1103.2 of the Civil Code, relating to real property.

[Approved by Governor July 21, 2023. Filed with Secretary of State July 21, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1280, Maienschein. Fire hazard severity zones: disclosures.

Existing law generally requires the seller of a single-family residential property to make certain disclosures of natural hazards on a specified statement to a prospective buyer, including whether the property is located in a very high fire hazard severity zone.

This bill, if a single-family residential property is located within a fire hazard severity zone, would require the above-described disclosure in the natural hazard statement to specify whether the property is located in a high or very high fire hazard severity zone. The bill would also clarify that the natural hazard statement is required to include a disclosure as to whether the property is located within a high fire hazard severity zone in a state responsibility area, very high fire hazard severity zone in a state responsibility area, or very high fire hazard severity zone in a local responsibility area.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1103.2 of the Civil Code is amended to read:

1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property:

The seller and the seller's agent(s) or a third-party consultant disclose the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the seller and the seller's agent(s) based on their knowledge and maps drawn by the state and federal governments. This information is a disclosure and is not intended to be part of any contract between the seller and buyer.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING
HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V") designated by the Federal Emergency Management Agency.

Yes ____ No ____ Do not know and
____ information not
____ available from local
____ jurisdiction ____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code.

Yes ____ No ____ Do not know and
____ information not
____ available from local
____ jurisdiction ____

A HIGH or VERY HIGH FIRE HAZARD SEVERITY ZONE (FHSZ) as identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes ____ No ____
High FHSZ in a state responsibility area ____
Very High FHSZ in a state responsibility area ____
Very High FHSZ in a local responsibility area ____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes ____ No ____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes ____ No ____

A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public Resources Code.

Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____
No ____ Map not yet released by
state ____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. SELLER(S) AND BUYER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Signature of Seller(s) _____ Date _____

Signature of Seller(s) _____ Date _____

Seller's Agent(s) _____ Date _____

Seller's Agent(s) _____ Date _____

Check only one of the following: ____

☐ Seller(s) and their agent(s) represent that the information herein is true and correct to the best of their knowledge as of the date signed by the transferor(s) and agent(s).

☐ Seller(s) and their agent(s) acknowledge that they have exercised good faith in the selection of a third-party report provider as required in Section 1103.7 of the Civil Code, and that the representations made in this Natural Hazard Disclosure Statement are based upon information provided by the independent third-party disclosure provider as a substituted disclosure pursuant to Section 1103.4 of the Civil Code. Neither seller(s) nor their agent(s) (1) has independently verified the information contained in this statement and report or (2) is personally aware of any errors or inaccuracies in the information contained on the statement. This statement was prepared by the provider below:

Third-Party

Disclosure Provider(s)

Date

Buyer represents that Buyer has read and understands this document. Pursuant to Section 1103.8 of the Civil Code, the representations made in this Natural Hazard Disclosure Statement do not constitute all of the seller's or agent's disclosure obligations in this transaction.

Signature of Buyer(s)

Date

Signature of Buyer(s)

Date

(b) If an earthquake fault zone, seismic hazard zone, high or very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller's agent may mark "No" on the Natural Hazard Disclosure Statement if the seller attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. This subdivision is not intended to limit or abridge any existing duty of the seller or the seller's agent to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The seller or seller's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(d) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government Code, then the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The seller or seller's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(e) The disclosure required pursuant to this article may be provided by the seller and the seller's agent in the Local Option Real Estate Disclosure Statement described in Section 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) (1) The legal effect of a consultant's report delivered to satisfy the exemption provided by Section 1103.4 is not changed when it is accompanied by a Natural Hazard Disclosure Statement.

(2) A consultant's report shall always be accompanied by a completed and signed Natural Hazard Disclosure Statement.

(3) In a disclosure statement required by this section, an agent and third-party provider may cause the agent and third-party provider's name to be preprinted in lieu of an original signature in the portions of the form reserved for signatures. The use of a preprinted name shall not change the legal effect of the acknowledgment.

(g) The disclosure required by this article is only a disclosure between the seller, the seller's agent, and the prospective buyer, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(h) In any transaction in which a seller has accepted, prior to June 1, 1998, an offer to purchase, the seller, or the seller's agent shall be deemed to have complied with the requirement of subdivision (a) if the seller or agent delivers to the prospective buyer a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.