

UNDERSTANDING THE PROPERTY CONDITION DISCLOSURE ACT

(1 credit)

The changes to the **Property Condition Disclosure Act** (PCDA) are effective on March 20, 2024. Under the new law, the Seller must fill out the 55-item **Property Condition Disclosure Statement** (PCDS) in lieu of giving the Purchaser a \$500.00 credit at Closing. Now, if a Seller intentionally fails to provide a PCDS to the Purchaser, the Seller may be responsible for any actual damages suffered by the Purchaser as a result (in addition to other remedies).

Changes under the PCDA:

- Prior to the signing of the contract, the Seller is required to complete and deliver the PCDS to the Purchaser, as there is no longer an opt-out provision. The PCDS is then attached to the contract.
- The PCDS is expanded as there are additional questions that have to do with potential flood status, history, and experience.

Agent/Broker Liability:

- Section 466 of the Real Property Law remains unchanged. The new PCDA does not alter the role or responsibilities of brokers and agents concerning the PCDS.
- The broker must inform their obligations to their client under the PCDA but once the broker fulfills their obligations, they have no further responsibilities under the PCDA. As a result, the broker will not be liable for any violation that results.
- Purchaser's Broker (or the Seller's Broker if Purchaser has none) must inform the Purchaser of their right to receive the PCDS.

Exceptions/Limitations:

- The PCDA is for sales of 1–4-family residential properties. Transactions involving cooperative or condominiums apartments remain exempt, as is a Seller who is a fiduciary (executors).
- The PCDA does not prevent parties from entering into various agreements concerning the physical condition of the property being sold, such as an “as is” agreement.

Takeaways:

- The statute is explicit in that a Seller is not required to investigate or inspect their property to complete the form accurately.
- Many of the questions on the PCDS can be answered “unknown.” With that said a court may rule that a Seller “knew” or “should have known” a fact or circumstance.